
By: **Howard County Delegation**

Introduced and read first time: January 24, 2000

Assigned to: Judiciary

Committee Report: Favorable

House action: Adopted

Read second time: February 22, 2000

CHAPTER_____

1 AN ACT concerning

2 **Howard County - Confinement as a Condition of Probation**
3 **Ho. Co. 4-00**

4 FOR the purpose of authorizing in Howard County the court to impose a sentence of
5 confinement as a condition of probation; and generally relating to probation.

6 BY repealing and reenacting, with amendments,
7 Article 27 - Crimes and Punishments
8 Section 641
9 Annotated Code of Maryland
10 (1996 Replacement Volume and 1999 Supplement)

11 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
12 MARYLAND, That the Laws of Maryland read as follows:

13 **Article 27 - Crimes and Punishments**

14 641.

15 (a) (1) (i) 1. Whenever a person accused of a crime pleads guilty or nolo
16 contendere or is found guilty of an offense, a court exercising criminal jurisdiction, if
17 satisfied that the best interests of the person and the welfare of the people of the
18 State would be served thereby, and with the written consent of the person after
19 determination of guilt or acceptance of a nolo contendere plea, may stay the entering
20 of judgment, defer further proceedings, and place the person on probation subject to
21 reasonable terms and conditions as appropriate. The terms and conditions may
22 include ordering the person to pay a fine or pecuniary penalty to the State, or to make

1 restitution, but before the court orders a fine, pecuniary penalty, or restitution the
 2 person is entitled to notice and a hearing to determine the amount of the fine,
 3 pecuniary penalty, or restitution, what payment will be required, and how payment
 4 will be made. The terms and conditions also may include any type of rehabilitation
 5 program or clinic, or similar program, or the parks program or voluntary hospital
 6 program.

7
 8 2. In Allegany County, Calvert County, Charles County,
 9 Garrett County, HOWARD COUNTY, and St. Mary's County, the court may impose a
 sentence of confinement as a condition of probation.

10 (ii) However, when the offense for which the judgment is being
 11 stayed is for violation of any provision of § 21-902 of the Transportation Article, the
 12 court:

13 1. Shall impose a period of probation and, as a condition of
 14 the probation, require the person to participate in an alcohol treatment or education
 15 program approved by the Department of Health and Mental Hygiene, unless the court
 16 finds and affirmatively states on the record that the interests of the person and the
 17 people of the State do not require the imposition of this condition; and

18 2. May, as a condition of probation, prohibit the person from
 19 operating a motor vehicle unless the motor vehicle is equipped with an ignition
 20 interlock system under § 27-107 of the Transportation Article.

21 (iii) When the offense for which the judgment is being stayed is for a
 22 violation of any provision of §§ 276 through 303 of this article, the court shall require
 23 the person to participate in a drug treatment or education program approved by the
 24 Department of Health and Mental Hygiene, unless the court finds and affirmatively
 25 states on the record that the interests of the person and the people of the State do not
 26 require the imposition of this condition.

27 (iv) Any fine or pecuniary penalty imposed as a term or condition of
 28 probation shall be within the amount prescribed by law for a violation resulting in
 29 conviction.

30 (2) Notwithstanding paragraph (1) of this subsection, a court may not
 31 stay the entering of judgment and place a person on probation for a violation of any
 32 provision of § 21-902 of the Transportation Article if the person has been convicted
 33 under, or has been placed on probation under this section after being charged with a
 34 violation of, § 21-902 of the Transportation Article within the preceding 5 years.

35 (3) Notwithstanding paragraph (1) of this subsection, a court may not
 36 stay the entering of judgment and place a person on probation for a second or
 37 subsequent controlled dangerous substance offense under §§ 276 through 303 of this
 38 article.

39 (4) Notwithstanding paragraph (1) of this subsection, a court may not
 40 stay the entering of judgment and place a person on probation for a violation of any of

1 the provisions of §§ 462 through 464B of this article for an offense involving a person
2 under the age of 16 years.

3 (5) By consenting to and receiving a stay of entering of the judgment as
4 provided by this subsection, the person waives the right to appeal from the judgment
5 of guilt by the court at any time. Prior to the person consenting to the stay of entering
6 of the judgment, the court shall notify the person that by consenting to and receiving
7 a stay of entry of judgment, the person waives the right to appeal from the judgment
8 of guilt by the court at any time.

9 (b) Upon violation of a term or condition of probation, the court may enter
10 judgment and proceed with disposition of the person as if the person had not been
11 placed on probation.

12 (c) Upon fulfillment of the terms and conditions of probation, the court shall
13 discharge the person from probation. The discharge is final disposition of the matter.
14 Discharge of a person under this section shall be without judgment of conviction and
15 is not a conviction for purposes of any disqualification or disability imposed by law
16 because of conviction of crime.

17 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
18 October 1, 2000.