
By: **Delegates Gladden and Vallario**
Introduced and read first time: February 3, 2000
Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Parole Eligibility - Elderly Inmates**

3 FOR the purpose of expanding a provision of law allowing inmates of at least a certain
4 age who have been incarcerated for a certain number of years to petition for and
5 be granted parole under certain circumstances; providing a certain exception;
6 requiring the Parole Commission to adopt certain regulations; and generally
7 relating to the parole eligibility of elderly inmates.

8 BY repealing and reenacting, with amendments,
9 Article 27 - Crimes and Punishments
10 Section 286(d), (e), and (g) and 643B
11 Annotated Code of Maryland
12 (1996 Replacement Volume and 1999 Supplement)

13 BY adding to
14 Article - Correctional Services
15 Section 7-301.1
16 Annotated Code of Maryland
17 (1999 Volume)

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

20 **Article 27 - Crimes and Punishments**

21 286.

22 (d) (1) A person who is convicted under subsection (b)(1) or subsection (b)(2)
23 of this section or of conspiracy to violate subsection (b)(1) or subsection (b)(2) of this
24 section shall be sentenced to imprisonment for the term allowed by law, but, in any
25 event, not less than 25 years and subject to a fine not exceeding \$100,000 if the
26 person previously:

1 (i) Has served at least 1 term of confinement of at least 180 days in
2 a correctional institution as a result of a conviction of a previous violation of this
3 section or § 286A of this article; and

4 (ii) Has been convicted twice, where the convictions do not arise
5 from a single incident:

6 1. Under subsection (b)(1) or subsection (b)(2) of this section;

7 2. Of conspiracy to violate subsection (b)(1) or subsection
8 (b)(2) of this section;

9 3. Of an offense under the laws of another state, the District
10 of Columbia, or the United States that would be a violation of subsection (b)(1) or
11 subsection (b)(2) of this section if committed in this State; or

12 4. Of any combination of these offenses.

13 (2) Neither the sentence required under paragraph (1) of this subsection
14 nor any part of it may be suspended, and the person may not be eligible for parole
15 except in accordance with [§ 4-305] §§ 4-305 AND 7-301.1 of the Correctional Services
16 Article.

17 (3) A separate occasion shall be considered one in which the second or
18 succeeding offense is committed after there has been a charging document filed for
19 the preceding offense.

20 (e) (1) A person who is convicted under subsection (b)(1) or subsection (b)(2)
21 of this section or of conspiracy to violate subsection (b)(1) or subsection (b)(2) of this
22 section shall be sentenced to imprisonment for the term allowed by law, but in any
23 event, not less than 40 years and subject to a fine not exceeding \$100,000 if the
24 person previously has served 3 separate terms of confinement as a result of 3
25 separate convictions:

26 (i) Under subsection (b)(1) or subsection (b)(2) of this section;

27 (ii) Of conspiracy to violate subsection (b)(1) or subsection (b)(2) of
28 this section;

29 (iii) Of an offense under the laws of another state, the District of
30 Columbia, or the United States that would be a violation of subsection (b)(1) or
31 subsection (b)(2) of this section if committed in this State; or

32 (iv) Of any combination of these offenses.

33 (2) Neither the sentence required under paragraph (1) of this subsection
34 nor any part of it may be suspended, and the person may not be eligible for parole
35 except in accordance with [§ 4-305] §§ 4-305 AND 7-301.1 of the Correctional Services
36 Article.

1 (g) (1) In this subsection, "drug kingpin" means a person who occupies a
2 position of an organizer, supervisor, financier, or manager as a coconspirator in a
3 conspiracy to manufacture, distribute, dispense, bring into, or transport in the State
4 controlled dangerous substances.

5 (2) (I) A drug kingpin who conspires to manufacture, distribute,
6 dispense, bring into, or transport in the State controlled dangerous substances in one
7 or more of the amounts described under subsection (f) of this section is guilty of a
8 felony and on conviction is subject to:

9 [(i)] 1. Imprisonment for not less than 20 nor more than 40 years
10 [without the possibility of parole], and it is mandatory on the court to impose no less
11 than 20 years' imprisonment, no part of which may be suspended; and

12 [(ii)] 2. A fine of not more than \$1,000,000.

13 (II) EXCEPT AS PROVIDED IN § 7-301.1 OF THE CORRECTIONAL
14 SERVICES ARTICLE, A PERSON SENTENCED TO IMPRISONMENT UNDER THIS
15 PARAGRAPH IS NOT BE ELIGIBLE FOR PAROLE.

16 (3) The provisions of § 641 of this article are not applicable to a
17 conviction under this subsection.

18 (4) Notwithstanding any other provision of this subheading, a conviction
19 under this subsection does not merge with the conviction for any offense which is the
20 object of the conspiracy.

21 (5) Nothing contained in this subsection prohibits the court from
22 imposing an enhanced penalty under § 293 of this article. This subsection may not be
23 construed to preclude or limit any prosecution for any other criminal offense.

24 (6) It is not a defense to a prosecution under this section that the
25 controlled dangerous substance was brought into or transported in this State solely
26 for ultimate distribution or dispensing in another jurisdiction.

27 643B.

28 (a) As used in this section, the term "crime of violence" means abduction;
29 arson in the first degree; kidnapping; manslaughter, except involuntary
30 manslaughter; mayhem and maiming, as previously proscribed under §§ 384, 385,
31 and 386 of this article; murder; rape; robbery; robbery with a deadly weapon;
32 carjacking or armed carjacking; sexual offense in the first degree; sexual offense in
33 the second degree; use of a handgun in the commission of a felony or other crime of
34 violence; an attempt to commit any of the aforesaid offenses; assault in the first
35 degree; and assault with intent to murder, assault with intent to rape, assault with
36 intent to rob, assault with intent to commit a sexual offense in the first degree, and
37 assault with intent to commit a sexual offense in the second degree, as these crimes
38 were previously proscribed under former § 12 of this article.

1 The term "correctional institution" includes Patuxent Institution and a local or
2 regional jail or detention center.

3 (b) Except as provided in subsections (f) and (g) of this section, any person who
4 has served three separate terms of confinement in a correctional institution as a
5 result of three separate convictions of any crime of violence shall be sentenced, on
6 being convicted a fourth time of a crime of violence, to life imprisonment without the
7 possibility of parole. Regardless of any other law to the contrary, the provisions of this
8 subsection are mandatory.

9 (c) Except as provided in subsections (f) and (g) of this section, any person who
10 (1) has been convicted on two separate occasions of a crime of violence where the
11 convictions do not arise from a single incident, and (2) has served at least one term of
12 confinement in a correctional institution as a result of a conviction of a crime of
13 violence, shall be sentenced, on being convicted a third time of a crime of violence, to
14 imprisonment for the term allowed by law, but, in any event, not less than 25 years.
15 The court may not suspend all or part of the mandatory 25-year sentence required
16 under this subsection, and the person shall not be eligible for parole except in
17 accordance with the provisions of § 4-305 of the Correctional Services Article. A
18 separate occasion shall be considered one in which the second or succeeding offense is
19 committed after there has been a charging document filed for the preceding occasion.

20 (d) Except as provided in subsection (g) of this section, any person who has
21 been convicted on a prior occasion of a crime of violence, including a conviction for an
22 offense committed before October 1, 1994, and has served a term of confinement in a
23 correctional institution for that conviction shall be sentenced, on being convicted a
24 second time of a crime of violence committed on or after October 1, 1994, to
25 imprisonment for the term allowed by law, but, in any event, not less than 10 years.
26 The court may not suspend all or part of the mandatory 10-year sentence required
27 under this subsection.

28 (e) If the State intends to proceed against a person as a subsequent offender
29 under this section, it shall comply with the procedures set forth in the Maryland
30 Rules for the indictment and trial of a subsequent offender.

31 [(f) (1) Any person sentenced under the provisions of this section who is at
32 least 65 years old and has served at least 15 years of the sentence imposed may
33 petition for and be granted parole.

34 (2) The Maryland Parole Commission shall adopt regulations to
35 implement the provisions of this subsection.]

36 (F) A PERSON SENTENCED UNDER THE PROVISIONS OF THIS SECTION IS
37 ELIGIBLE FOR PAROLE IN THE MANNER PROVIDED IN § 7-301.1 OF THE
38 CORRECTIONAL SERVICES ARTICLE.

39 (g) If a person is sentenced to death, the provisions of this section do not apply.

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Article - Correctional Services

2 7-301.1.

3 (A) THIS SECTION DOES NOT APPLY TO A PERSON WHO HAS BEEN
4 SENTENCED TO LIFE IMPRISONMENT WITHOUT THE POSSIBILITY OF PAROLE UNDER
5 ARTICLE 27, § 412 OR § 413 OF THE CODE.

6 (B) IN ADDITION TO THE PROVISIONS OF § 7-301 OF THIS SUBTITLE, A PERSON
7 WHO IS AT LEAST 65 YEARS OLD AND HAS BEEN INCARCERATED FOR AT LEAST 15
8 YEARS MAY PETITION FOR AND BE GRANTED PAROLE.

9 (C) THE COMMISSION SHALL ADOPT REGULATIONS TO IMPLEMENT THE
10 PROVISIONS OF THIS SECTION.

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