

SENATE BILL 72

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2000 Regular Session
0lr0104

(PRE-FILED)

By: **Chairman, Judicial Proceedings Committee (Departmental - Public
Safety and Correctional Services)**

Requested: November 15, 1999

Introduced and read first time: January 12, 2000

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Fingerprinting of Criminal Defendants - Probation Prior to Judgment**

3 FOR the purpose of repealing an exemption from a requirement for fingerprinting
4 upon being sentenced to probation prior to judgment under specified
5 circumstances; and generally relating to fingerprinting requirements for
6 criminal defendants.

7 BY repealing and reenacting, without amendments,
8 Article 27 - Crimes and Punishments
9 Section 641
10 Annotated Code of Maryland
11 (1996 Replacement Volume and 1999 Supplement)

12 BY repealing and reenacting, with amendments,
13 Article 27 - Crimes and Punishments
14 Section 747A
15 Annotated Code of Maryland
16 (1996 Replacement Volume and 1999 Supplement)

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

19 **Article 27 - Crimes and Punishments**

20 641.

21 (a) (1) (i) 1. Whenever a person accused of a crime pleads guilty or nolo
22 contendere is or is found guilty of an offense, a court exercising criminal jurisdiction,
23 if satisfied that the best interests of the person and the welfare of the people of the
24 State would be served thereby, and with the written consent of the person after
25 determination of guilt or acceptance of a nolo contendere plea, may stay the entering
26 of judgment, defer further proceedings, and place the person on probation subject to

1 (4) Notwithstanding paragraph (1) of this subsection, a court may not
2 stay the entering of judgment and place a person on probation for a violation of any of
3 the provisions of §§ 462 through 464B of this article for an offense involving a person
4 under the age of 16 years.

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

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

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

19 747A.

20 (a) In this section, "law enforcement agency" includes:

21 (1) A State, county, or municipal police department or agency; or

22 (2) A sheriff's office.

23 (b) (1) When a defendant is found guilty, or pleads guilty or nolo contendere
24 to an offense that is criminal history record information, as defined in § 743(e) of this
25 subtitle, and is sentenced to commitment in a local correctional facility, or receives a
26 suspended sentence, probation, [other than] probation prior to judgment under § 641
27 of this article, or a fine, and the defendant has not previously been fingerprinted as a
28 result of arrest for the sentenced offense, the judge imposing the sentence shall order
29 that the defendant be fingerprinted by the appropriate available law enforcement
30 agency.

31 (2) If the fingerprinting cannot be done immediately, the judge shall
32 order that the defendant report to the designated law enforcement agency for
33 fingerprinting within 3 days after sentencing.

34 (3) If a defendant fails to report as ordered under paragraph (2) of this
35 subsection, the defendant shall be in contempt of court.

36 (c) (1) This subsection applies only to an adjudication of delinquency for a
37 child:

1 (i) Who is at least 14 years old, for an act described in § 3-804(e)(1)
2 of the Courts and Judicial Proceedings Article; or

3 (ii) Who is at least 16 years old, for an act described in § 3-804(e)(4)
4 or (5) of the Courts and Judicial Proceedings Article.

5 (2) When a child described under paragraph (1) of this subsection is
6 adjudicated delinquent by reason of an offense described in this subsection and the
7 child has not previously been fingerprinted as a result of arrest for the delinquent act,
8 the court that conducted the disposition hearing shall order that the child be
9 fingerprinted by the appropriate available law enforcement agency.

10 (3) If the fingerprinting cannot be done immediately, the court shall
11 order that the child report to the designated law enforcement agency for
12 fingerprinting within 3 days after making a disposition on an adjudication of
13 delinquency described under paragraph (1) of this subsection.

14 (d) When the offense charged is one that is defined as a "petty offense" by law
15 or rule of court, the judge shall exercise discretion as to whether the defendant shall
16 be fingerprinted under subsection (b) of this section.

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