

SENATE BILL 494
EMERGENCY BILL

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2000 Regular Session
0lr1922

By: **Senators Ferguson, Jacobs, Hooper, Harris, and Mooney**
Introduced and read first time: February 4, 2000
Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Sentencing - Confinement as a Condition of Probation - Ineligibility for**
3 **Probation**

4 FOR the purpose of expanding the authority of the courts throughout the State to
5 impose a sentence of confinement as a condition of probation; making certain
6 offenders who are convicted of certain crimes ineligible for probation; making
7 this Act an emergency measure; and generally relating to the authority of the
8 courts to impose a sentence of confinement as a condition of probation.

9 BY repealing and reenacting, with amendments,
10 Article 27 - Crimes and Punishments
11 Section 639(a), 641(a), and 641A(a)
12 Annotated Code of Maryland
13 (1996 Replacement Volume and 1999 Supplement)

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

16 **Article 27 - Crimes and Punishments**

17 639.

18 (a) (1) The courts may suspend sentence generally or for a definite time, and
19 may make such orders and impose such terms as to costs, recognizance for
20 appearance, or matters relating to the residence or conduct of the convicts as may be
21 deemed proper; and if the convict is a person under 18 years of age, the courts may
22 also make such orders as to his detention in any care or custody as may be deemed
23 proper.

24 (2) [In Charles County, St. Mary's County, and Calvert County, the] THE
25 court may impose a sentence of confinement as a condition of probation.

26 641.

27 (a) (1) (i) 1. Whenever a person accused of a crime pleads guilty or nolo
28 contendere or is found guilty of an offense, a court exercising criminal jurisdiction, if

1 (2) 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
3 provision of § 21-902 of the Transportation Article if the person has been convicted
4 under, or has been placed on probation under this section after being charged with a
5 violation of, § 21-902 of the Transportation Article within the preceding 5 years.

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

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

14 (5) By consenting to and receiving a stay of entering of the judgment as
15 provided by this subsection, the person waives the right to appeal from the judgment
16 of guilt by the court at any time. Prior to the person consenting to the stay of entering
17 of the judgment, the court shall notify the person that by consenting to and receiving
18 a stay of entry of judgment, the person waives the right to appeal from the judgment
19 of guilt by the court at any time.

20 641A.

21 (a) (1) Upon entering a judgment of conviction, the court having jurisdiction
22 may suspend the imposition or execution of sentence and place the defendant on
23 probation upon such terms and conditions as the court deems proper.

24 (2) [In Charles County, St. Mary's County, Cecil County, Harford County,
25 and Calvert County, the] THE court may impose as a condition of probation a
26 sentence of confinement.

27 (3) The court may impose a sentence for a specified period and provide
28 that a lesser period be served in confinement, suspend the remainder of the sentence
29 and grant probation for a period longer than the sentence but not in excess of 5 years.

30 (4) However, if the defendant consents in writing, the court may grant
31 probation in excess of 5 years, but only for purposes of making restitution.

32 SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency
33 measure, is necessary for the immediate preservation of the public health and safety,
34 has been passed by a ye and nay vote supported by three-fifths of all the members
35 elected to each of the two Houses of the General Assembly, and shall take effect from
36 the date it is enacted.