

(PRE-FILED)

By: **Delegate Boschert**
Requested: June 26, 2000
Introduced and read first time: January 10, 2001
Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Controlled Dangerous Substance Crimes - Project Exile**

3 FOR the purpose of establishing and requiring the imposition of certain mandatory
4 minimum sentences for certain violations of certain controlled dangerous
5 substance crimes; altering the length of certain mandatory minimum sentences
6 for certain controlled dangerous substance crimes; limiting the availability of
7 parole for certain mandatory minimum sentences; requiring certain sentences
8 for certain controlled dangerous substance crimes to be imposed consecutive to
9 certain other sentences; requiring a judge to consider as a rebuttable
10 presumption that a defendant charged with certain crimes will flee and pose a
11 danger to another person or the community; allowing the court or District Court
12 commissioner to consider including certain requirements as conditions of
13 pretrial release; allowing the State to appeal from a certain decision of the
14 District Court or to apply to the Court of Special Appeals for leave to appeal an
15 order of the circuit court setting the amount and conditions of bail claimed to be
16 insufficient before trial or after conviction; and generally relating to the
17 penalties and conditions for pretrial release for certain controlled dangerous
18 substance crimes.

19 BY repealing and reenacting, without amendments,
20 Article 27 - Crimes and Punishments
21 Section 281A(b)
22 Annotated Code of Maryland
23 (1996 Replacement Volume and 2000 Supplement)

24 BY repealing and reenacting, with amendments,
25 Article 27 - Crimes and Punishments
26 Section 286 through 286E
27 Annotated Code of Maryland
28 (1996 Replacement Volume and 2000 Supplement)

29 BY repealing and reenacting, without amendments,
30 Article - Criminal Procedure

1 Section 5-202(b)
2 Annotated Code of Maryland
3 (As enacted by Chapter ____ (S.B. 1) of the Acts of the General Assembly of 2001)

4 BY repealing and reenacting, with amendments,
5 Article - Criminal Procedure
6 Section 5-202(c)
7 Annotated Code of Maryland
8 (As enacted by Chapter ____ (S.B. 1) of the Acts of the General Assembly of 2001)

9 BY repealing and reenacting, with amendments,
10 Article - Courts and Judicial Proceedings
11 Section 3-707 and 12-401(b)
12 Annotated Code of Maryland
13 (1998 Replacement Volume and 2000 Supplement)

14 Preamble

15 WHEREAS, Project Exile is a legislative initiative originally designed to make
16 gun-carrying criminals face immediate prosecution, stiff mandatory prison sentences,
17 and reduced opportunities for prison release -- in effect to "exile" criminals to prison
18 for at least five years; and

19 WHEREAS, "Project Exile" for firearms crimes has proven to be a highly
20 successful program operating in Richmond, Virginia, involving federal, state, and
21 local law enforcement agencies, resulting in greatly reduced homicide, armed robbery,
22 and carry rates; and

23 WHEREAS, The means employed by Project Exile to reduce the incidence of gun
24 violence and the firearm "carry rate" -- truly mandatory prison sentences and
25 reduced opportunities for prison release -- can reap equal benefits for our
26 communities when applied to many controlled dangerous substance crimes; and

27 WHEREAS, It would benefit the residents of Maryland to design a Project Exile
28 program for controlled dangerous substance crimes in this State; now, therefore,

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

31 **Article 27 - Crimes and Punishments**

32 281A.

33 (b) During and in relation to any drug trafficking crime, a person who
34 possesses a firearm under sufficient circumstances to constitute a nexus to the drug
35 trafficking crime or who uses, wears, carries, or transports a firearm is guilty of a

1 separate felony and on conviction shall, in addition to the sentence provided for the
2 drug trafficking crime, be sentenced as follows:

3 (1) (i) For a first offense, for a term of not less than 5 nor more than 20
4 years.

5 (ii) It is mandatory upon the court to impose no less than the
6 minimum sentence of 5 years, no part of which may be suspended and the person may
7 not be eligible for parole except in accordance with the provisions of § 4-305 of the
8 Correctional Services Article; and

9 (2) (i) For a second or subsequent offense, for a term of not less than
10 10 nor more than 20 years.

11 (ii) It is mandatory upon the court to impose no less than a
12 minimum consecutive sentence of 10 years, no part of which may be suspended and
13 the person may not be eligible for parole except in accordance with the provisions of §
14 4-305 of the Correctional Services Article.

15 (iii) The sentence shall be served consecutively and not concurrently
16 to any other sentence imposed by virtue of the commission of the drug trafficking
17 crime.

18 286.

19 (a) Except as authorized by this subheading, it is unlawful for any person:

20 (1) To manufacture, distribute, or dispense, or to possess a controlled
21 dangerous substance in sufficient quantity to reasonably indicate under all
22 circumstances an intent to manufacture, distribute, or dispense, a controlled
23 dangerous substance;

24 (2) To create, distribute, or possess with intent to distribute, a
25 counterfeit controlled dangerous substance;

26 (3) To manufacture, distribute, or possess any punch, die, plate, stone, or
27 any other equipment which is designed to print, imprint, or reproduce the trademark,
28 trade name, or other identifying mark, imprint, or device of another or any likeness of
29 any of the foregoing upon any drug or container or labeling thereof so as to render the
30 drug a counterfeit controlled dangerous substance;

31 (4) To manufacture, distribute, or possess any machine, equipment,
32 instrument, implement, device, or combination thereof which is adopted for the
33 production of controlled dangerous substances under circumstances which reasonably
34 indicate an intention to use such item or combination thereof to produce, sell, or
35 dispense any controlled dangerous substance in violation of the provisions of this
36 subheading;

37 (5) To keep or maintain any common nuisance which means any dwelling
38 house, apartment, building, vehicle, vessel, aircraft, or any place whatever which is

1 resorted to by drug abusers for purposes of illegally administering controlled
2 dangerous substances or which is used for the illegal manufacture, distribution,
3 dispensing, storage or concealment of controlled dangerous substances or controlled
4 paraphernalia, as defined in § 287(d) of this subheading; or

5 (6) To possess, pass, utter, make, or manufacture a false, forged, or
6 altered prescription or prescriptions for a controlled dangerous substance with the
7 intent to distribute the controlled dangerous substance. Information communicated to
8 an authorized prescriber in an effort to obtain a controlled dangerous substance in
9 violation of the provisions of this item shall not be deemed a privileged
10 communication.

11 (b) Any person who violates any of the provisions of subsection (a) of this
12 section with respect to:

13 (1) A substance classified in Schedules I or II which is a narcotic drug is
14 guilty of a felony and [is subject] ON CONVICTION SHALL BE SENTENCED to
15 imprisonment for NOT LESS THAN 5 YEARS AND not more than 20 years, [or] AND IS
16 SUBJECT TO a fine of not more than \$25,000[, or both]. THE PRISON SENTENCE OF A
17 PERSON SENTENCED UNDER THIS PARAGRAPH MAY NOT BE SUSPENDED TO LESS
18 THAN 5 YEARS, AND THE PERSON MAY BE PAROLED DURING THAT PERIOD ONLY IN
19 ACCORDANCE WITH § 4-305 OF THE CORRECTIONAL SERVICES ARTICLE.

20 (2) Phencyclidine, 1-(1-phenylcyclohexyl) piperidine,
21 1-phenylcyclohexylamine, or 1-piperidinocyclohexanecarbonitrile, classified in
22 Schedule II, or n-ethyl-1-phenylcyclohexylamine,
23 1-(1-phenylcyclohexyl)-pyrrolidine, 1-(1-(2-thienyl)-cyclohexyl)-piperidine, or
24 lysergic acid diethylamide, classified in Schedule I, is guilty of a felony and [is
25 subject] ON CONVICTION SHALL BE SENTENCED to imprisonment for NOT LESS THAN
26 5 YEARS AND not more than 20 years, [or] AND IS SUBJECT TO a fine of not more than
27 \$20,000[, or both]. THE PRISON SENTENCE OF A PERSON SENTENCED UNDER THIS
28 PARAGRAPH MAY NOT BE SUSPENDED TO LESS THAN 5 YEARS, AND THE PERSON MAY
29 BE PAROLED DURING THAT PERIOD ONLY IN ACCORDANCE WITH § 4-305 OF THE
30 CORRECTIONAL SERVICES ARTICLE.

31 (3) Any other controlled dangerous substance classified in Schedule I, II,
32 III, IV, or V shall, upon conviction, be deemed guilty of a felony and sentenced to a
33 term of imprisonment for not more than 5 years or a fine of not more than \$15,000, or
34 both. Any person who has previously been convicted under this paragraph shall be
35 sentenced to imprisonment for not less than 2 years. The prison sentence of a person
36 sentenced under this paragraph as a repeat offender may not be suspended to less
37 than 2 years, and the person may be paroled during that period only in accordance
38 with § 4-305 of the Correctional Services Article.

39 (c) (1) A person who is convicted under subsection (b)(1) or subsection (b)(2)
40 of this section, or of conspiracy to violate subsection (b)(1) or (b)(2) of this section shall
41 be sentenced to imprisonment for not less than 10 years and subject to a fine not
42 exceeding \$100,000 if the person previously has been convicted:

- 1 (i) Under subsection (b)(1) or subsection (b)(2) of this section;
- 2 (ii) Of conspiracy to violate subsection (b)(1) or subsection (b)(2) of
3 this section; or
- 4 (iii) Of an offense under the laws of another state, the District of
5 Columbia, or the United States that would be a violation of subsection (b)(1) or
6 subsection (b)(2) of this section if committed in this State.
- 7 (2) The prison sentence of a person sentenced under subsection (b)(1) or
8 subsection (b)(2) of this section, or of conspiracy to violate subsection (b)(1) or
9 subsection (b)(2) of this section or any combination of these offenses, as a second
10 offender may not be suspended to less than 10 years, and the person may be paroled
11 during that period only in accordance with § 4-305 of the Correctional Services
12 Article.
- 13 (3) This subsection does not prevent, prohibit, or make ineligible a
14 convicted defendant from participating in the rehabilitation program under Title 8,
15 Subtitle 5 of the Health - General Article, because of the length of sentence, if
16 imposed under subsection (b)(1) of this section.
- 17 (d) (1) A person who is convicted under subsection (b)(1) or subsection (b)(2)
18 of this section or of conspiracy to violate subsection (b)(1) or subsection (b)(2) of this
19 section shall be sentenced to imprisonment for the term allowed by law, but, in any
20 event, not less than 25 years and subject to a fine not exceeding \$100,000 if the
21 person previously:
- 22 (i) Has served at least 1 term of confinement of at least 180 days in
23 a correctional institution as a result of a conviction of a previous violation of this
24 section or § 286A of this article; and
- 25 (ii) Has been convicted twice, where the convictions do not arise
26 from a single incident:
- 27 1. Under subsection (b)(1) or subsection (b)(2) of this section;
- 28 2. Of conspiracy to violate subsection (b)(1) or subsection
29 (b)(2) of this section;
- 30 3. Of an offense under the laws of another state, the District
31 of Columbia, or the United States that would be a violation of subsection (b)(1) or
32 subsection (b)(2) of this section if committed in this State; or
- 33 4. Of any combination of these offenses.
- 34 (2) Neither the sentence required under paragraph (1) of this subsection
35 nor any part of it may be suspended, and the person may not be eligible for parole
36 except in accordance with § 4-305 of the Correctional Services Article.

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

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

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

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

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

16 (iv) Of any combination of these offenses.

17 (2) Neither the sentence required under paragraph (1) of this subsection
18 nor any part of it may be suspended, and the person may not be eligible for parole
19 except in accordance with § 4-305 of the Correctional Services Article.

20 (f) (1) If a person violates subsection (a)(1) of this section and the violation
21 involves any of the following controlled dangerous substances, in the amounts
22 indicated, the person is subject to the penalties provided in paragraph (3) of this
23 subsection upon conviction:

24 (i) 50 pounds or more of marijuana;

25 (ii) 448 grams or more of cocaine or 448 grams or more of any
26 mixture containing a detectable amount of cocaine;

27 (iii) 50 grams or more of cocaine base, commonly known as "crack";

28 (iv) 28 grams or more of morphine or opium or any derivative, salt,
29 isomer, or salt of an isomer of morphine or opium or any mixture containing 28 grams
30 or more of morphine or opium or any derivative, salt, isomer, or salt of an isomer of
31 morphine or opium;

32 (v) 1,000 dosage units of lysergic acid diethylamide or any mixture
33 containing the equivalent of 1,000 dosage units of lysergic acid diethylamide;

34 (vi) 16 ounces or more of phencyclidine in liquid form or 448 grams
35 or more of any mixture containing phencyclidine; or

1 (vii) 448 grams or more of methamphetamine or any mixture
2 containing 448 grams or more of methamphetamine.

3 (2) For purposes of determining the quantity of a controlled dangerous
4 substance under paragraph (1) of this subsection, the quantity of controlled
5 dangerous substances involved in individual acts of manufacturing, distribution,
6 dispensing, or possessing with intent to distribute may be aggregated if each
7 aggregate act of manufacturing, distribution, dispensing, or possessing with the
8 intent to distribute occurred within a period of 90 days.

9 (3) (i) A person convicted of violating paragraph (1) of this subsection
10 is guilty of a felony and shall be subject to a fine not exceeding \$100,000 and shall be
11 sentenced as otherwise provided for in this section, except that it is mandatory upon
12 the court to impose no less than 5 years' imprisonment, and neither that term of
13 imprisonment nor any part of it may be suspended.

14 (ii) The person may not be eligible for parole except in accordance
15 with § 4-305 of the Correctional Services Article.

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

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

24 (i) Imprisonment for not less than 20 nor more than 40 years
25 without the possibility of parole, and it is mandatory on the court to impose no less
26 than 20 years' imprisonment, no part of which may be suspended; and

27 (ii) A fine of not more than \$1,000,000.

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

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

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

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

1 286A.

2 (a) (1) A person who brings into this State any of the following controlled
3 dangerous substances which it is unlawful for that person to possess, in the amounts
4 indicated, upon conviction, is subject to the penalty provided in subsection (b)(1) of
5 this section:

6 (i) 45 kilograms or greater of marijuana;

7 (ii) 28 grams or greater of cocaine or any mixture containing 28
8 grams or greater of cocaine;

9 (iii) 4 grams or more of morphine or opium or any derivative, salt,
10 isomer, or salt of an isomer of morphine or opium;

11 (iv) 1,000 dosage units of lysergic acid diethylamide or any mixture
12 containing the equivalent of 1,000 dosage units of lysergic acid diethylamide;

13 (v) 28 grams or more of phencyclidine in liquid or powder form or
14 112 grams or more of any mixture containing phencyclidine;

15 (vi) 1,000 dosage units or more of methaqualone;

16 (vii) 28 grams or more of methamphetamine or any mixture
17 containing 28 grams or more of methamphetamine; or

18 (viii) 4 grams or more of fentanyl or a fentanyl analogue.

19 (2) A person who brings into this State marijuana in the amount of more
20 than 5 kilograms but less than 45 kilograms which it is unlawful for that person to
21 possess is subject to the penalty provided in subsection (b)(2) of this section.

22 (b) (1) (I) A person convicted of violating subsection (a)(1) of this section is
23 guilty of a felony and [may be fined] ON CONVICTION SHALL BE SENTENCED TO
24 IMPRISONMENT FOR NOT LESS THAN 5 YEARS AND NOT MORE THAN 25 YEARS, AND
25 IS SUBJECT TO A FINE OF not more than \$50,000 [or imprisoned for not more than 25
26 years, or both fined and imprisoned in the discretion of the court].

27 (II) IT IS MANDATORY ON THE COURT TO IMPOSE NOT LESS THAN
28 THE MINIMUM SENTENCE OF 5 YEARS.

29 (III) THE SENTENCE IMPOSED UNDER THIS PARAGRAPH IS TO BE
30 SERVED CONSECUTIVE TO ANY OTHER SENTENCE.

31 (IV) EXCEPT AS OTHERWISE PROVIDED IN § 4-305 OF THE
32 CORRECTIONAL SERVICES ARTICLE, THE PERSON IS NOT ELIGIBLE FOR PAROLE IN
33 LESS THAN 5 YEARS.

34 (2) (I) A person who violates subsection (a)(2) of this section is guilty of
35 a felony and on conviction SHALL BE SENTENCED TO IMPRISONMENT FOR NOT LESS

1 THAN 2 YEARS AND NOT MORE THAN 10 YEARS, AND is subject to a fine of not more
2 than \$10,000 [or imprisonment for not more than 10 years or both].

3 (II) IT IS MANDATORY ON THE COURT TO IMPOSE NOT LESS THAN
4 THE MINIMUM SENTENCE OF 2 YEARS.

5 (III) THE SENTENCE IMPOSED UNDER THIS PARAGRAPH IS TO BE
6 SERVED CONSECUTIVE TO ANY OTHER SENTENCE.

7 (IV) EXCEPT AS OTHERWISE PROVIDED IN § 4-305 OF THE
8 CORRECTIONAL SERVICES ARTICLE, THE PERSON IS NOT ELIGIBLE FOR PAROLE IN
9 LESS THAN 2 YEARS.

10 286B.

11 For purposes of this section,

12 (a) (1) "Noncontrolled substance" means any substance not classified as a
13 controlled dangerous substance by State law or regulation.

14 (2) "Distribute" means the actual, constructive, or attempted transfer,
15 exchange, or delivering of a noncontrolled substance, other than by dispensing, from
16 one person to another with or without remuneration, whether or not there exists an
17 agency relationship.

18 (b) A person may not distribute, attempt to distribute, or possess with intent
19 to distribute, a noncontrolled substance upon the representation that the substance is
20 a controlled dangerous substance.

21 (c) It is unlawful for a person to distribute, attempt to distribute, or possess
22 with intent to distribute, any noncontrolled substance intended by that person for use
23 or distribution as a controlled dangerous substance or under circumstances where one
24 reasonably should know that the noncontrolled substance will be used or distributed
25 for use as a controlled dangerous substance.

26 (d) For the purpose of determining whether this section has been violated, the
27 court or other authority shall include in its consideration the following:

28 (1) Whether the noncontrolled substance was packaged in a manner
29 normally used for the illegal distribution of controlled substances;

30 (2) Whether the distribution or attempted distribution included an
31 exchange of or demand for money or other property as consideration, and whether the
32 amount of the consideration was substantially greater than the reasonable value of
33 the noncontrolled substance;

34 (3) Whether the physical appearance of the noncontrolled substance is
35 substantially identical to that of a controlled dangerous substance.

1 (e) In any prosecution brought under this section, it is not a defense to a
2 violation of this section that the defendant believed the noncontrolled substance to
3 actually be a controlled dangerous substance.

4 (f) Any person who violates the provisions of this section with respect to the
5 distribution, attempt to distribute, or possession with intent to distribute a
6 noncontrolled substance as a controlled dangerous substance, is guilty of a felony and,
7 upon conviction, [is subject] SHALL BE SENTENCED to imprisonment for NOT LESS
8 THAN 2 YEARS AND not more than 5 years, [or] AND IS SUBJECT TO a fine of not more
9 than \$15,000 [or both].

10 (G) (1) IT IS MANDATORY ON THE COURT TO IMPOSE NOT LESS THAN THE
11 MINIMUM SENTENCE OF 2 YEARS.

12 (2) THE SENTENCE IMPOSED UNDER THIS SECTION IS TO BE SERVED
13 CONSECUTIVE TO ANY OTHER SENTENCE.

14 (3) EXCEPT AS OTHERWISE PROVIDED IN § 4-305 OF THE CORRECTIONAL
15 SERVICES ARTICLE, THE PERSON IS NOT ELIGIBLE FOR PAROLE IN LESS THAN 2
16 YEARS.

17 286C.

18 (a) A person may not hire, solicit, engage, or use a minor, in any manner, for
19 the purpose of manufacturing, distributing, or delivering, on behalf of that person,
20 any controlled dangerous substance in sufficient quantity to reasonably indicate
21 under all the circumstances an intent to distribute, unless the manufacturing,
22 delivery, or distribution has a lawful purpose.

23 (b) Any person who violates this section is guilty of a felony and, upon
24 conviction, shall be sentenced to imprisonment for [up to] NOT LESS THAN 5 YEARS
25 AND NOT MORE THAN 20 [years, or fined up to] YEARS, AND IS SUBJECT TO A FINE
26 OF NOT MORE THAN \$20,000[, or both].

27 (C) (1) IT IS MANDATORY ON THE COURT TO IMPOSE NOT LESS THAN THE
28 MINIMUM SENTENCE OF 5 YEARS.

29 (2) THE SENTENCE IMPOSED UNDER THIS SECTION IS TO BE SERVED
30 CONSECUTIVE TO ANY OTHER SENTENCE.

31 (3) EXCEPT AS OTHERWISE PROVIDED IN § 4-305 OF THE CORRECTIONAL
32 SERVICES ARTICLE, THE PERSON IS NOT ELIGIBLE FOR PAROLE IN LESS THAN 5
33 YEARS.

34 286D.

35 (a) A person who manufactures, distributes, dispenses, or possesses with
36 intent to distribute a controlled dangerous substance in violation of § 286(a)(1) of this
37 subheading, or who conspires to commit any of these offenses, is guilty of a felony if
38 the offense occurred:

1 (1) In, on, or within 1,000 feet of any real property owned by or leased to
2 any elementary school, secondary school, or school board, and used for elementary or
3 secondary education, as defined under § 1-101 of the Education Article, regardless of
4 whether:

5 (i) School was in session at the time of the offense; or

6 (ii) The real property was being used for other purposes besides
7 school purposes at the time of the offense; or

8 (2) On a school vehicle, as defined under § 11-154 of the Transportation
9 Article.

10 (b) (1) A person who violates the provisions of this section, on conviction[,
11 shall be subject to the following penalties]:

12 (i) For a first offense, SHALL BE SENTENCED TO imprisonment for
13 NOT LESS THAN 5 AND not more than 20 [years or] YEARS, AND IS SUBJECT TO a fine
14 of not more than \$20,000 [or both]; or

15 (ii) For a second or subsequent offense, SHALL BE SENTENCED TO
16 imprisonment for not less than 5 [or] YEARS AND NOT more than 40 [years or]
17 YEARS, AND IS SUBJECT TO a fine of not more than \$40,000 [or both].

18 (2) It is mandatory for the court to impose a minimum sentence of 5
19 years, which may not be suspended, and a person is not eligible for parole during that
20 period, except in accordance with § 4-305 of the Correctional Services Article.

21 [(2)] (3) A sentence imposed under this subsection shall be served
22 consecutively to any other sentence imposed.

23 (c) Notwithstanding any other provision of law, a conviction arising under this
24 section may not merge with a conviction for a violation of § 286 or § 286C of this
25 subheading.

26 (d) (1) In a prosecution under this section, a map produced or reproduced by
27 any municipal or county agency or department for the purpose of depicting the
28 location and boundaries of the area on or within 1,000 feet of the property of a public
29 or nonpublic elementary or secondary school that is used for school purposes, or a true
30 copy of the map, shall, if certified as a true copy by the custodian of the record, be
31 admissible and shall constitute prima facie evidence of the location and boundaries of
32 the area, if the governing body of the municipality or county has approved the map as
33 an official record of the location and boundaries of the area.

34 (2) A map approved under this section may be revised from time to time
35 by the governing body of the municipality or county.

36 (3) The original of every map approved or revised under this section, or a
37 true copy, shall be filed with the municipality or county and shall be maintained as an
38 official record of the municipality or county.

1 (4) This section does not preclude the prosecution from introducing or
2 relying upon any other evidence or testimony to establish any element of this offense.

3 (5) This section does not preclude the use or admissibility of map or
4 diagram other than the one which has been approved by the municipality or county.

5 286E.

6 (a) A person may not transport, carry, or otherwise bring a minor into the
7 State for the purpose of using the minor in the commission of a violation of § 286, §
8 286A, § 286B, § 286C, or § 286D of this subheading.

9 (b) A person who violates this section is guilty of a felony and on conviction
10 SHALL BE SENTENCED TO IMPRISONMENT FOR NOT LESS THAN 5 YEARS AND NOT
11 MORE THAN 20 YEARS, AND is subject to a fine of up to \$20,000 [or imprisonment for
12 up to 20 years or both].

13 (C) (1) IT IS MANDATORY ON THE COURT TO IMPOSE NOT LESS THAN THE
14 MINIMUM SENTENCE OF 5 YEARS.

15 (2) THE SENTENCE IMPOSED UNDER THIS SECTION IS TO BE SERVED
16 CONSECUTIVE TO ANY OTHER SENTENCE.

17 (3) EXCEPT AS OTHERWISE PROVIDED IN § 4-305 OF THE CORRECTIONAL
18 SERVICES ARTICLE, THE PERSON IS NOT ELIGIBLE FOR PAROLE IN LESS THAN 5
19 YEARS.

20 **Article - Criminal Procedure**

21 5-202.

22 (b) (1) A District Court commissioner may not authorize the pretrial release
23 of a defendant charged as a drug kingpin under Article 27, § 286(g) of the Code.

24 (2) A judge may authorize the pretrial release of a defendant charged as
25 a drug kingpin on suitable bail and on any other conditions that will reasonably
26 ensure that the defendant will not flee or pose a danger to another person or the
27 community.

28 (3) There is a rebuttable presumption that, if released, a defendant
29 charged as a drug kingpin will flee and pose a danger to another person or the
30 community.

31 (c) (1) A District Court commissioner may not authorize the pretrial release
32 of a defendant charged with:

33 (I) a crime of [violence if the defendant has been previously
34 convicted:

35 (i) in this State of a crime of violence; or

1 (ii) in any other jurisdiction of a crime that would be a crime of
2 violence if committed in this State] VIOLENCE; OR

3 (II) A VIOLATION OF ARTICLE 27, § 281(B), § 286(A) THROUGH (F), §
4 286A, § 286B, § 286C, § 286D, OR § 286E OF THE CODE.

5 (2) (i) A judge may authorize the pretrial release of a defendant
6 described in paragraph (1) of this subsection on:

7 1. suitable bail;

8 2. any other conditions that will reasonably ensure that the
9 defendant will not flee or pose a danger to another person or the community; or

10 3. both bail and other conditions described under item 2 of
11 this subparagraph.

12 (ii) When a defendant described in paragraph (1) of this subsection
13 is presented to the court under Maryland Rule 4-216(g), the judge shall order the
14 continued detention of the defendant if the judge determines that neither suitable
15 bail nor any condition or combination of conditions will reasonably ensure that the
16 defendant will not flee or pose a danger to another person or the community before
17 the trial.

18 (3) There is a rebuttable presumption that a defendant described in
19 paragraph (1) of this subsection will flee and pose a danger to another person or the
20 community.

21 (4) IN ADDITION TO THE CONDITIONS OF PRETRIAL RELEASE SPECIFIED
22 ELSEWHERE IN THIS SECTION, THE COURT OR DISTRICT COURT COMMISSIONER MAY
23 CONSIDER INCLUDING AS A CONDITION OF PRETRIAL RELEASE A REQUIREMENT
24 THAT THE DEFENDANT:

25 (I) MAINTAIN EMPLOYMENT OR, IF UNEMPLOYED, ACTIVELY SEEK
26 EMPLOYMENT;

27 (II) MAINTAIN OR BEGIN AN EDUCATIONAL PROGRAM;

28 (III) AVOID ALL CONTACT WITH AN ALLEGED VICTIM OF THE CRIME
29 AND WITH ANY POTENTIAL WITNESS WHO MAY TESTIFY CONCERNING THE CRIME;

30 (IV) COMPLY WITH A SPECIFIED CURFEW;

31 (V) REFRAIN FROM USE OF ALCOHOL OR CONTROLLED
32 DANGEROUS SUBSTANCES;

33 (VI) SUBMIT TO DRUG OR ALCOHOL TESTING UNTIL THE
34 DISPOSITION OF THE DEFENDANT'S CASE; OR

35 (VII) REFRAIN FROM POSSESSING A FIREARM, DESTRUCTIVE
36 DEVICE, OR OTHER DANGEROUS WEAPON.

1 **Article - Courts and Judicial Proceedings**

2 3-707.

3 (a) If a judge refuses to issue a writ of habeas corpus sought for the purpose of
4 determining the right to bail, or if a judge sets bail claimed to be excessive prior to
5 trial or after conviction, but prior to final judgment, a petitioner may apply to the
6 Court of Special Appeals for leave to appeal from the refusal.

7 (b) (1) A petitioner shall file the application for leave to appeal within [ten]
8 10 days after the denial or grant of habeas corpus relief stating briefly why the order
9 of the lower court should be reversed or modified.

10 (2) The record on the application for leave to appeal shall contain a copy
11 of the petition for habeas corpus, the State's answer, if any, the order of the court, and
12 the memorandum of reasons issued by the judge.

13 (3) If the Court grants the application, it may order the preparation of a
14 transcript of any proceedings related to the habeas corpus petition.

15 (c) (1) The Court of Special Appeals may grant or deny the application for
16 leave to appeal. If the Court grants the application, it may affirm, reverse, or modify
17 the order of the lower court granting or denying the relief sought by the writ.

18 (2) If the Court determines that the lower court was wrong in refusing to
19 admit to bail or that the bail set is not appropriate, it may determine the proper
20 amount of bail. This determination is binding on the lower court, unless a change of
21 circumstances warrants a different decision.

22 (D) THE STATE MAY APPLY TO THE COURT OF SPECIAL APPEALS FOR LEAVE
23 TO APPEAL AN ORDER OF THE CIRCUIT COURT SETTING THE AMOUNT AND
24 CONDITIONS OF BAIL CLAIMED TO BE INSUFFICIENT BEFORE TRIAL OR AFTER
25 CONVICTION.

26 12-401.

27 (b) In a criminal case:

28 (1) The State may appeal from [a]:

29 (I) A DECISION OF THE DISTRICT COURT SETTING THE AMOUNT
30 AND CONDITIONS OF BAIL; OR

31 (II) A final judgment entered in the District Court:

32 [(i)] 1. If the State alleges that the trial judge failed to impose the
33 sentence specifically mandated by the Code; or

34 [(ii)] 2. Granting a motion to dismiss, or quashing or dismissing a
35 charging document.

1 (2) The defendant may appeal even from a final judgment entered in the
2 District Court though imposition or execution of sentence has been suspended.

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
4 October 1, 2001.