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By: **Senators Ruben, Forehand, and Lawlah**  
Introduced and read first time: January 15, 2001  
Assigned to: Judicial Proceedings

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A BILL ENTITLED

1 AN ACT concerning

2 **Motor Vehicles - Drunk and Drugged Driving - Probation Before Judgment**

3 FOR the purpose of extending the time period during which a court is prohibited from  
4 staying the entry of judgment and placing a person on probation for a  
5 subsequent violation of certain alcohol or drug related driving offenses if the  
6 person previously was convicted of or placed on probation for certain alcohol or  
7 drug related driving offenses; and generally relating to drunk and drugged  
8 driving and probation before judgment.

9 BY repealing and reenacting, with amendments,  
10 Article - Criminal Procedure  
11 Section 6-220  
12 Annotated Code of Maryland  
13 (As enacted by Chapter \_\_\_ (S.B. 1) of the Acts of the General Assembly of 2001)

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

16 **Article - Criminal Procedure**

17 6-220.

18 (a) (1) When a defendant pleads guilty or nolo contendere or is found guilty  
19 of a crime, a court may stay the entering of judgment, defer further proceedings, and  
20 place the defendant on probation subject to reasonable conditions if:

21 (i) the court is satisfied that the best interests of the defendant  
22 and the public welfare would be served; and

23 (ii) the defendant gives written consent after determination of guilt  
24 or acceptance of a nolo contendere plea.

25 (2) Subject to paragraphs (3) and (4) of this subsection, the conditions  
26 may include an order that the defendant:

1 (i) pay a fine or monetary penalty to the State or make restitution;  
2 or

3 (ii) participate in a rehabilitation program, the parks program, or a  
4 voluntary hospital program.

5 (3) Before the court orders a fine, monetary penalty, or restitution, the  
6 defendant is entitled to notice and a hearing to determine the amount of the fine,  
7 monetary penalty, or restitution, what payment will be required, and how payment  
8 will be made.

9 (4) Any fine or monetary penalty imposed as a condition of probation  
10 shall be within the amount set by law for a violation resulting in conviction.

11 (b) (1) When the crime for which the judgment is being stayed is for a  
12 violation of § 21-902 of the Transportation Article, the court shall impose a period of  
13 probation and, as a condition of the probation:

14 (i) shall require the defendant to participate in an alcohol  
15 treatment or education program approved by the Department of Health and Mental  
16 Hygiene, unless the court finds and states on the record that the interests of the  
17 defendant and the public do not require the imposition of this condition; and

18 (ii) may prohibit the defendant from operating a motor vehicle  
19 unless the motor vehicle is equipped with an ignition interlock system under § 27-107  
20 of the Transportation Article.

21 (2) When the crime for which the judgment is being stayed is for a  
22 violation of any provision of Article 27, §§ 276 through 303 of the Code, the court shall  
23 impose a period of probation and, as a condition of probation, require the defendant to  
24 participate in a drug treatment or education program approved by the Department of  
25 Health and Mental Hygiene, unless the court finds and states on the record that the  
26 interests of the defendant and the public do not require the imposition of this  
27 condition.

28 (c) Notwithstanding subsections (a) and (b) of this section, a court may not  
29 stay the entering of judgment and place a defendant on probation for:

30 (1) a violation of § 21-902 of the Transportation Article, if within the  
31 preceding [5] 10 years the defendant has been convicted under or has been placed on  
32 probation under that section after being charged with a violation of § 21-902 of the  
33 Transportation Article;

34 (2) a second or subsequent controlled dangerous substance crime under  
35 Article 27, §§ 276 through 303 of the Code; or

36 (3) a violation of any of the provisions of Article 27, §§ 462 through 464B  
37 of the Code for a crime involving a person under the age of 16 years.

1 (d) (1) By consenting to and receiving a stay of entering of the judgment as  
2 provided by subsections (a) and (b) of this section, the defendant waives the right to  
3 appeal at any time from the judgment of guilt.

4 (2) Before granting a stay, the court shall notify the defendant of the  
5 consequences of consenting to and receiving a stay of entry of judgment under  
6 paragraph (1) of this subsection.

7 (e) On violation of a condition of probation, the court may enter judgment and  
8 proceed as if the defendant had not been placed on probation.

9 (f) (1) On fulfillment of the conditions of probation, the court shall  
10 discharge the defendant from probation.

11 (2) The discharge is a final disposition of the matter.

12 (3) Discharge of a defendant under this section shall be without  
13 judgment of conviction and is not a conviction for the purpose of any disqualification  
14 or disability imposed by law because of conviction of a crime.

15 (g) In Allegany County, Calvert County, Charles County, Garrett County,  
16 Howard County, and St. Mary's County, the court may impose a sentence of  
17 confinement as a condition of probation.

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