

SENATE BILL 609

Unofficial Copy
E4

2001 Regular Session
11r1769
CF 11r1768

By: **Senator Kelley (State Commission on Criminal Sentencing Policy)**

Introduced and read first time: February 2, 2001

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Sentences - Mandatory Supervision - Applicability of Parole Laws**

3 FOR the purpose of expanding provisions of law related to parole to apply to
4 mandatory supervision; specifying that persons convicted of crimes while on
5 mandatory supervision are not entitled to certain diminution credits on return
6 to confinement; providing that an individual on mandatory supervision is
7 subject to certain provisions applicable to parolees concerning revocation,
8 modification of conditions, and consecutive sentences; clarifying that if
9 mandatory supervision is revoked, the inmate is not eligible for certain
10 diminution credits under certain circumstances; applying provisions of law
11 relating to diminution credits to inmates in local correctional facilities;
12 providing that certain laws relating to credit for time served presentence do not
13 apply to persons on mandatory supervision confined before being sentenced for a
14 subsequent crime under certain circumstances; and generally relating to parole
15 and mandatory supervision.

16 BY repealing and reenacting, with amendments,
17 Article - Correctional Services
18 Section 3-702, 3-711, 7-502, and 7-504
19 Annotated Code of Maryland
20 (1999 Volume and 2000 Supplement)

21 BY repealing and reenacting, without amendments,
22 Article - Correctional Services
23 Section 3-704(c), 7-401, 7-402, 7-403(a), and 7-501
24 Annotated Code of Maryland
25 (1999 Volume and 2000 Supplement)

26 BY adding to
27 Article - Correctional Services
28 Section 11-510
29 Annotated Code of Maryland
30 (1999 Volume and 2000 Supplement)

1 BY repealing and reenacting, with amendments,
2 Article - Criminal Procedure
3 Section 6-218(a)
4 Annotated Code of Maryland
5 (As enacted by Chapter _____(S.B. 1) of the Acts of the General Assembly of 2001)

6 BY repealing and reenacting, without amendments,
7 Article - Criminal Procedure
8 Section 6-218(b)
9 Annotated Code of Maryland
10 (As enacted by Chapter _____(S.B. 1) of the Acts of the General Assembly of 2001)

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

13 **Article - Correctional Services**

14 3-702.

15 Subject to [§ 3-711 of] this subtitle and Title 7, [Subtitle] SUBTITLES 4 AND 5
16 of this article, an inmate committed to the custody of the Commissioner is entitled to
17 a diminution of the inmate's term of confinement as provided under this subtitle.

18 3-704.

19 (c) A deduction under this section may not be allowed for a period during
20 which an inmate does not receive credit for service of the inmate's term of
21 confinement, including a period:

22 (1) during which the inmate's sentence is stayed;

23 (2) during which the inmate is not in the custody of the Commissioner
24 because of escape; or

25 (3) for which the Maryland Parole Commission has declined to grant
26 credit after revocation of parole or mandatory supervision.

27 3-711.

28 If an inmate is convicted and sentenced to imprisonment for a crime committed
29 while on parole OR MANDATORY SUPERVISION and the parole OR MANDATORY
30 SUPERVISION is revoked, diminution credits that were awarded before the inmate's
31 release on parole OR MANDATORY SUPERVISION may not be applied toward the
32 inmate's term of confinement on return to the Division.

1 7-401.

2 (a) If a parolee is alleged to have violated a condition of parole, one
3 commissioner shall hear the case on revocation of the parole at the time and place
4 that the Commission designates.

5 (b) (1) Each individual charged with a parole violation is entitled to be
6 represented by counsel of the individual's choice or, if eligible, counsel provided by the
7 Public Defender's office.

8 (2) The Commission shall keep a record of the hearing.

9 (c) If the commissioner finds from the evidence that the parolee has violated a
10 condition of parole, the commissioner may take any action that the commissioner
11 considers appropriate, including:

12 (1) (i) revoking the order of parole;

13 (ii) setting a future hearing date for consideration for reparole; and

14 (iii) remanding the individual to the Division of Correction or local
15 correctional facility from which the individual was paroled; or

16 (2) continuing parole:

17 (i) without modification of its conditions; or

18 (ii) with modification of its conditions, including a requirement that
19 the parolee spend all or part of the remaining parole period in a home detention
20 program.

21 (d) (1) Subject to paragraph (2) of this subsection and further action by the
22 Commission, if the order of parole is revoked, the inmate shall serve the remainder of
23 the sentence originally imposed unless the commissioner hearing the parole
24 revocation, in the commissioner's discretion, grants credit for time between release on
25 parole and revocation of parole.

26 (2) An inmate may not receive credit for time between release on parole
27 and revocation of parole if:

28 (i) the inmate was serving a sentence for a violent crime when
29 parole was revoked; and

30 (ii) the parole was revoked due to a finding that the inmate
31 committed a violent crime while on parole.

32 (e) (1) The inmate may seek judicial review in the circuit court within 30
33 days after receiving the written decision of the Commission.

34 (2) The court shall hear the action on the record.

1 7-402.

2 (a) (1) On recommendation of the Division of Parole and Probation or on the
3 Commission's own initiative, the Commission may modify the conditions of parole at
4 any time for good cause.

5 (2) The modification may include imposing home detention as a
6 condition of parole.

7 (b) (1) The Commission shall adopt procedures for the modification of
8 conditions of parole that give a parolee an opportunity to show why the conditions
9 should not be modified.

10 (2) This section does not require a hearing or establish a right of judicial
11 review.

12 7-403.

13 (a) If a parolee is convicted of a crime committed while on parole and is
14 sentenced to an additional term of imprisonment in any correctional facility in this
15 State, the new sentence shall run consecutive to the time to be served on the original
16 term unless the judge imposing the new sentence expressly orders otherwise.

17 7-501.

18 The Division of Correction shall grant a conditional release from confinement to
19 an inmate who:

20 (1) is serving a term of confinement of more than 12 months;

21 (2) was sentenced on or after July 2, 1970, to the jurisdiction of the
22 Division of Correction; and

23 (3) has served the term or terms, less diminution credit awarded under
24 Title 3, Subtitle 7 and Title 11, Subtitle 5 of this article.

25 7-502.

26 (a) An individual on mandatory supervision remains in legal custody until the
27 expiration of the individual's full term.

28 (b) An individual on mandatory supervision is subject to:

29 (1) all laws, rules, regulations, and conditions that apply to parolees,
30 INCLUDING THE PROVISIONS OF TITLE 7, SUBTITLE 4 OF THIS TITLE; and

31 (2) any special conditions established by a commissioner.

1 7-504.

2 (a) The commissioner presiding at an individual's mandatory supervision
3 revocation hearing may revoke any or all of the diminution credits previously earned
4 by the individual on the individual's term of confinement.

5 (b) [An] IF AN INMATE'S MANDATORY SUPERVISION IS REVOKED, THE inmate
6 may not be awarded any new diminution credits [after the inmate's mandatory
7 supervision has been revoked] ON:

8 (1) THE SENTENCE FOR WHICH THE INMATE'S MANDATORY SENTENCE
9 WAS REVOKED;

10 (2) A NEW SENTENCE; OR

11 (3) A SUBSEQUENT SENTENCE SERVED DURING THE SAME TERM OF
12 CONFINEMENT.

13 11-510.

14 AN INMATE COMMITTED TO THE CUSTODY OF A LOCAL CORRECTIONAL
15 FACILITY IS ENTITLED TO A DIMINUTION OF THE INMATE'S TERM OF CONFINEMENT
16 AS PROVIDED UNDER THIS SUBTITLE SUBJECT TO:

17 (1) TITLE 7, SUBTITLES 4 AND 5 OF THIS ARTICLE; AND

18 (2) ANY REASON THAT AN INMATE WOULD BE PROHIBITED FROM
19 RECEIVING A CREDIT OR DEDUCTION FOR DIMINUTION CREDITS PROVIDED TO
20 INMATES COMMITTED TO CUSTODY OF THE COMMISSIONER UNDER § 3-704 OR § 3-711
21 OF THIS ARTICLE.

22 **Article - Criminal Procedure**

23 6-218.

24 (a) This section does not apply to a parolee OR A PERSON ON MANDATORY
25 SUPERVISION who is returned to the custody of the Division of Correction because of
26 a subsequent crime and is confined before being sentenced for the subsequent crime.

27 (b) (1) A defendant who is convicted and sentenced shall receive credit
28 against and a reduction of the term of a definite or life sentence, or the minimum and
29 maximum terms of an indeterminate sentence, for all time spent in the custody of a
30 State correctional facility, local correctional facility, hospital, facility for persons with
31 mental disorders, or other unit because of:

32 (i) the charge for which the sentence is imposed; or

33 (ii) the conduct on which the charge is based.

1 (2) If a defendant is in custody because a charge that results in a
2 dismissal or acquittal, the time that would have been credited if a sentence had been
3 imposed shall be credited against any sentence that is based on a charge for which a
4 warrant or commitment was filed during that custody.

5 (3) In a case other than a case described in paragraph (2) of this
6 subsection, the sentencing court may apply credit against a sentence for time spent in
7 custody for another charge or crime.

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