
By: **Delegate Giannetti**

Introduced and read first time: February 7, 2002

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure - Sentencing - House Arrest**

3 FOR the purpose of authorizing the court under certain circumstances to order a term
4 of house arrest which requires an individual to remain in a private dwelling at
5 all times; and generally relating to sentencing procedures and house arrest.

6 BY repealing and reenacting, with amendments,
7 Article - Criminal Procedure
8 Section 6-219, 6-220, and 6-225
9 Annotated Code of Maryland
10 (2001 Volume)

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

13 **Article - Criminal Procedure**

14 6-219.

15 (a) (1) In this section, "custodial confinement" means:

16 (i) home detention;

17 (ii) a corrections options program established under law which
18 requires the individual to participate in home detention, inpatient treatment, or other
19 similar program involving terms and conditions that constitute the equivalent of
20 confinement; [or]

21 (iii) inpatient drug or alcohol treatment; OR

22 (IV) HOUSE ARREST, WHICH REQUIRES THE INDIVIDUAL TO
23 REMAIN IN A PRIVATE DWELLING AT ALL TIMES.

24 (2) "Custodial confinement" does not include imprisonment.

25 (b) Subject to subsection (c) of this section, a court:

- 1 (1) may suspend a sentence generally or for a definite time;
- 2 (2) may pass orders and impose terms as to costs, recognizance for
3 appearance, or matters relating to the residence or conduct of the defendant who is
4 convicted as may be deemed proper;
- 5 (3) if the defendant who is convicted is under 18 years of age, may order
6 confinement in any care or custody as may be deemed proper; or
- 7 (4) may order a person to a term of custodial confinement as a condition
8 of a suspended sentence.

9 (c) (1) If the court places on probation a defendant who has been convicted
10 of a violation of § 21-902(a) or (b) of the Transportation Article, the court shall require
11 as a condition that the defendant participate in an alcohol treatment or education
12 program approved by the Department of Health and Mental Hygiene, unless the court
13 finds and states on the record that the interests of the defendant and the public do not
14 require the imposition of this condition.

15 (2) If the court places on probation a defendant who has been convicted
16 of a violation of any provision of Article 27, §§ 276 through 303 of the Code, the court
17 shall require as a condition that the defendant participate in a drug treatment or
18 education program approved by the Department of Health and Mental Hygiene,
19 unless the court finds and states on the record that the interests of the defendant and
20 the public do not require the imposition of this condition.

21 (d) (1) In Calvert County, Charles County, and St. Mary's County, the court
22 may impose a sentence of imprisonment as a condition of probation.

23 (2) In Prince George's County, the court on conviction may sentence a
24 defendant to the local correctional facility, if:

25 (i) the sentence is to be performed during any 48-hour period in a
26 7-day period, with each period of confinement to be not less than 2 days of the
27 sentence imposed;

28 (ii) the crime leading to the conviction allows confinement in the
29 local correctional facility; and

30 (iii) the total sentence does not exceed 30 2-day periods of
31 confinement.

32 (e) If an individual violates the terms of probation, any time served by the
33 individual in custodial confinement shall be credited against any sentence of
34 incarceration imposed by the court.

35 6-220.

36 (a) (1) In this section, "custodial confinement" means:

- 1 (i) home detention;
- 2 (ii) a corrections options program established under law which
3 requires the individual to participate in home detention, inpatient treatment, or other
4 similar program involving terms and conditions that constitute the equivalent of
5 confinement; [or]
- 6 (iii) inpatient drug or alcohol treatment; OR
- 7 (IV) HOUSE ARREST, WHICH REQUIRES THE INDIVIDUAL TO
8 REMAIN IN THE DWELLING AT ALL TIMES.
- 9 (2) "Custodial confinement" does not include imprisonment.
- 10 (b) (1) When a defendant pleads guilty or nolo contendere or is found guilty
11 of a crime, a court may stay the entering of judgment, defer further proceedings, and
12 place the defendant on probation subject to reasonable conditions if:
- 13 (i) the court finds that the best interests of the defendant and the
14 public welfare would be served; and
- 15 (ii) the defendant gives written consent after determination of guilt
16 or acceptance of a nolo contendere plea.
- 17 (2) Subject to paragraphs (3) and (4) of this subsection, the conditions
18 may include an order that the defendant:
- 19 (i) pay a fine or monetary penalty to the State or make restitution;
20 or
- 21 (ii) participate in a rehabilitation program, the parks program, or a
22 voluntary hospital program.
- 23 (3) Before the court orders a fine, monetary penalty, or restitution, the
24 defendant is entitled to notice and a hearing to determine the amount of the fine,
25 monetary penalty, or restitution, what payment will be required, and how payment
26 will be made.
- 27 (4) Any fine or monetary penalty imposed as a condition of probation
28 shall be within the amount set by law for a violation resulting in conviction.
- 29 (5) As a condition of probation, the court may order a person to a term of
30 custodial confinement.
- 31 (c) (1) When the crime for which the judgment is being stayed is for a
32 violation of § 21-902 of the Transportation Article, the court shall impose a period of
33 probation and, as a condition of the probation:
- 34 (i) shall require the defendant to participate in an alcohol
35 treatment or education program approved by the Department of Health and Mental

1 Hygiene, unless the court finds and states on the record that the interests of the
2 defendant and the public do not require the imposition of this condition; and

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

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

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

15 (1) a violation of § 21-902 of the Transportation Article, if within the
16 preceding 5 years the defendant has been convicted under or has been placed on
17 probation under that section after being charged with a violation of § 21-902 of the
18 Transportation Article;

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

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

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

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

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

31 (g) (1) On fulfillment of the conditions of probation, the court shall
32 discharge the defendant from probation.

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

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

1 (h) In Allegany County, Calvert County, Charles County, Garrett County,
2 Howard County, and St. Mary's County, the court may impose a sentence of
3 imprisonment as a condition of probation.

4 (i) If an individual violates the terms of probation, any time served by the
5 individual in custodial confinement shall be credited against any sentence of
6 incarceration imposed by the court.

7 6-225.

8 (a) (1) In this section, "custodial confinement" means:

9 (i) home detention;

10 (ii) a corrections options program established under law which
11 requires the individual to participate in home detention, inpatient treatment, or other
12 similar program involving terms and conditions that constitute the equivalent of
13 confinement; [or]

14 (iii) inpatient drug or alcohol treatment; OR

15 (IV) HOUSE ARREST, WHICH REQUIRES THE INDIVIDUAL TO
16 REMAIN IN THE INDIVIDUAL'S DWELLING AT ALL TIMES.

17 (2) "Custodial confinement" does not include imprisonment.

18 (b) (1) (i) Probation may be granted whether the crime is punishable by
19 fine or imprisonment or both.

20 (ii) If the crime is punishable by both fine and imprisonment, the
21 court may impose a fine and place the defendant on probation as to the imprisonment.

22 (iii) Probation may be limited to one or more counts or indictments
23 but, in the absence of express limitation, extends to the entire sentence and judgment.

24 (iv) The court may revoke or modify a condition of probation or may
25 reduce the period of probation.

26 (v) As a condition of probation, the court may order a defendant to
27 a term of custodial confinement.

28 (2) If a sentence of imprisonment is imposed and a part of it is suspended
29 with the defendant placed on probation, the court may impose as a condition of
30 probation that the probation begin on the day the defendant is released from
31 imprisonment.

32 (c) If the court places on probation a defendant who has been convicted of a
33 violation of any provision of Article 27, §§ 276 through 303 of the Code, the court shall
34 require as a condition that the defendant participate in a drug treatment or education
35 program approved by the Department of Health and Mental Hygiene, unless the court

1 finds and states on the record that the interests of the defendant and the public do not
2 require the imposition of this condition.

3 (d) In Calvert County, Cecil County, Charles County, Harford County, and St.
4 Mary's County, the court may impose a sentence of imprisonment as a condition of
5 probation.

6 (e) If an individual violates the terms of probation, any time served by the
7 individual in custodial confinement shall be credited against any sentence of
8 incarceration imposed by the court.

9 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
10 October 1, 2002.