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By: **Senators Ruben, Forehand, Hoffman, Hollinger, Kelley, Lawlah, and Teitelbaum**

Introduced and read first time: January 30, 2002

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, without amendments,  
10 Article - Criminal Procedure  
11 Section 6-220(b) and (c)  
12 Annotated Code of Maryland  
13 (2001 Volume)

14 BY repealing and reenacting, with amendments,  
15 Article - Criminal Procedure  
16 Section 6-220(d)  
17 Annotated Code of Maryland  
18 (2001 Volume)

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

21 **Article - Criminal Procedure**

22 6-220.

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

26 (i) the court finds that the best interests of the defendant and the  
27 public welfare would be served; and

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

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

5 (i) pay a fine or monetary penalty to the State or make restitution;  
6 or

7 (ii) participate in a rehabilitation program, the parks program, or a  
8 voluntary hospital program.

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

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

15 (5) As a condition of probation, the court may order a person to a term of  
16 custodial confinement.

17 (c) (1) When the crime for which the judgment is being stayed is for a  
18 violation of § 21-902 of the Transportation Article, the court shall impose a period of  
19 probation and, as a condition of the probation:

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

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

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

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

36 (1) a violation of § 21-902 of the Transportation Article, if within the  
37 preceding [5] 10 years the defendant has been convicted under or has been placed on

1 probation under that section after being charged with a violation of § 21-902 of the  
2 Transportation Article;

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

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

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