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By: **Delegates Hutchins and Vallario**  
Introduced and read first time: February 7, 2003  
Assigned to: Judiciary

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A BILL ENTITLED

1 AN ACT concerning

2                                   **Criminal Procedure - Custodial Confinement as a Condition of Probation or**  
3                                   **Suspension of Sentence**

4 FOR the purpose of expanding the authority of the courts throughout the State to  
5 impose a sentence of custodial confinement as a condition of probation or  
6 suspension of sentence; and generally relating to the authority of the courts to  
7 impose a sentence of custodial confinement as a condition of probation or  
8 suspension of sentence.

9 BY repealing and reenacting, with amendments,  
10 Article - Criminal Procedure  
11 Section 6-219(a), (b), (d), and (e), 6-220(a) and (b), and 6-225(d)  
12 Annotated Code of Maryland  
13 (2001 Volume and 2002 Supplement)

14 BY repealing  
15 Article - Criminal Procedure  
16 Section 6-220(h)  
17 Annotated Code of Maryland  
18 (2001 Volume and 2002 Supplement)

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 6-219.

23 (a) [(1)] In this section, "custodial confinement" means:

24 [(i)] (1) home detention;

25 [(ii)] (2) a corrections options program established under law  
26 which requires the individual to participate in home detention, inpatient treatment,

1 or other similar program involving terms and conditions that constitute the  
2 equivalent of confinement; or

3 [(iii)] (3) inpatient drug or alcohol treatment.

4 [(2)] "Custodial confinement" does not include imprisonment.]

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

6 (1) may suspend a sentence generally or for a definite time;

7 (2) may pass orders and impose terms as to costs, recognizance for  
8 appearance, or matters relating to the residence or conduct of the defendant who is  
9 convicted as may be deemed proper;

10 (3) [if the defendant who is convicted is under 18 years of age,] may  
11 order confinement in any care or custody as may be deemed proper; or

12 (4) may order a person to a term of custodial confinement as a condition  
13 of a suspended sentence.

14 (d) [(1)] In Calvert County, Charles County, and St. Mary's County, the] THE  
15 court may impose a sentence of imprisonment as a condition of probation.

16 [(2)] (E) In Prince George's County, the court on conviction may sentence  
17 a defendant to the local correctional facility, if:

18 [(i)] (1) the sentence is to be performed during any 48-hour period  
19 in a 7-day period, with each period of confinement to be not less than 2 days of the  
20 sentence imposed;

21 [(ii)] (2) the crime leading to the conviction allows confinement in  
22 the local correctional facility; and

23 [(iii)] (3) the total sentence does not exceed 30 2-day periods of  
24 confinement.

25 [(e)] (F) If an individual violates the terms of probation, any time served by  
26 the individual in custodial confinement shall be credited against any sentence of  
27 incarceration imposed by the court.

28 6-220.

29 (a) [(1)] In this section, "custodial confinement" means:

30 [(i)] (1) home detention;

31 [(ii)] (2) a corrections options program established under law  
32 which requires the individual to participate in home detention, inpatient treatment,  
33 or other similar program involving terms and conditions that constitute the  
34 equivalent of confinement; or

1 [(iii)] (3) inpatient drug or alcohol treatment.

2 [(2) "Custodial confinement" does not include imprisonment.]

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

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

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

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

12 (i) pay a fine or monetary penalty to the State or make restitution;  
13 or

14 (ii) participate in a rehabilitation program, the parks program, or a  
15 voluntary hospital program.

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

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

22 (5) As a condition of probation, the court may order a person to a term of  
23 custodial confinement OR IMPRISONMENT.

24 [(h) In Allegany County, Calvert County, Charles County, Garrett County,  
25 Howard County, and St. Mary's County, the court may impose a sentence of  
26 imprisonment as a condition of probation.]

27 6-225.

28 (d) [In Calvert County, Cecil County, Charles County, Harford County, and St.  
29 Mary's County, the] THE court may impose a sentence of CUSTODIAL CONFINEMENT  
30 OR imprisonment as a condition of probation.

31 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
32 October 1, 2003.