
By: **Senator Giannetti**

Introduced and read first time: January 31, 2003

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure - 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 confinement as a condition of probation or suspension of
6 sentence; making a technical change; and generally relating to the authority of
7 the courts to impose a sentence of 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, 6-220, and 6-225(d)
12 Annotated Code of Maryland
13 (2001 Volume and 2002 Supplement)

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 6-219.

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

19 (i) home detention;

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

24 (iii) inpatient drug or alcohol treatment.

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

26 (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 Title 5 of the Criminal Law Article, the court shall
17 require as a condition that the defendant participate in a drug treatment or education
18 program approved by the Department of Health and Mental Hygiene, unless the court
19 finds and states on the record that the interests of the defendant and the public do not
20 require the imposition of this condition.

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

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

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

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

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

32 [(e)] (F) If an individual violates the terms of probation, any time served by
33 the 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.
- 7 (2) "Custodial confinement" does not include imprisonment.
- 8 (b) (1) When a defendant pleads guilty or nolo contendere or is found guilty
9 of a crime, a court may stay the entering of judgment, defer further proceedings, and
10 place the defendant on probation subject to reasonable conditions if:
- 11 (i) the court finds that the best interests of the defendant and the
12 public welfare would be served; and
- 13 (ii) the defendant gives written consent after determination of guilt
14 or acceptance of a nolo contendere plea.
- 15 (2) Subject to paragraphs (3) and (4) of this subsection, the conditions
16 may include an order that the defendant:
- 17 (i) pay a fine or monetary penalty to the State or make restitution;
18 [or]
- 19 (ii) participate in a rehabilitation program, the parks program, or a
20 voluntary hospital program; OR
- 21 (III) SERVE A SENTENCE OF CONFINEMENT.
- 22 (3) Before the court orders a fine, monetary penalty, or restitution, the
23 defendant is entitled to notice and a hearing to determine the amount of the fine,
24 monetary penalty, or restitution, what payment will be required, and how payment
25 will be made.
- 26 (4) Any fine or monetary penalty imposed as a condition of probation
27 shall be within the amount set by law for a violation resulting in conviction.
- 28 (5) As a condition of probation, the court may order a person to a term of
29 custodial confinement.
- 30 (c) (1) When the crime for which the judgment is being stayed is for a
31 violation of § 21-902 of the Transportation Article, the court shall impose a period of
32 probation and, as a condition of the probation:
- 33 (i) shall require the defendant to participate in an alcohol
34 treatment or education program approved by the Department of Health and Mental
35 Hygiene, unless the court finds and states on the record that the interests of the
36 defendant and the public do not require the imposition of this condition; and

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

4 (2) When the crime for which the judgment is being stayed is for a
5 violation of any provision of Title 5 of the Criminal Law Article, the court shall impose
6 a period of probation and, as a condition of probation, require the defendant to
7 participate in a drug treatment or education program approved by the Department of
8 Health and Mental Hygiene, unless the court finds and states on the record that the
9 interests of the defendant and the public do not require the imposition of this
10 condition.

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

13 (1) a violation of § 21-902 of the Transportation Article or § 2-503, §
14 2-504, § 2-505, § 2-506, or § 3-211 of the Criminal Law Article, if within the
15 preceding 5 years the defendant has been convicted under § 21-902 of the
16 Transportation Article or § 2-503, § 2-504, § 2-505, § 2-506, or § 3-211 of the
17 Criminal Law Article, or has been placed on probation in accordance with this section,
18 after being charged with a violation of § 21-902 of the Transportation Article or §
19 2-503, § 2-504, § 2-505, § 2-506, or § 3-211 of the Criminal Law Article;

20 (2) a second or subsequent controlled dangerous substance crime under
21 Title 5 of the Criminal Law Article; or

22 (3) a violation of any of the provisions of §§ 3-303 through 3-307 of the
23 Criminal Law Article for a crime involving a person under the age of 16 years.

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

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

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

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

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

35 (3) Discharge of a defendant under this section shall be without
36 judgment of conviction and is not a conviction for the purpose of any disqualification
37 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 (d) [In Calvert County, Cecil County, Charles County, Harford County, and St.
9 Mary's County, the] THE court may impose a sentence of imprisonment as a condition
10 of probation.

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