
By: **Senator Haines**

Introduced and read first time: January 31, 2003

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Sentencing - Revisory Power of the Courts - Limitation**

3 FOR the purpose of authorizing a defendant who seeks a court to revise, modify, or
4 reduce a sentence to file a certain motion within a certain period; limiting to a
5 certain period the revisory power of courts over sentencing; authorizing a
6 defendant to file a motion to revise, modify, or reduce a sentence at any time in
7 a case involving an illegal sentence, fraud, mistake, or irregularity; requiring a
8 court that revises, modifies, or reduces a sentence to act on the record in open
9 court after providing the defendant, State, and certain victims or victims'
10 representatives an opportunity to testify; requiring a court that revises,
11 modifies, or reduces a sentence to state in writing the reasons for the action by
12 the court; requiring the State's Attorney to provide to certain victims or victim's
13 representatives certain notice; prohibiting a court from increasing a sentence
14 based on a certain motion filed by a defendant; and generally relating to the
15 revisory power of a court in criminal sentencing.

16 BY adding to
17 Article - Criminal Procedure
18 Section 6-229
19 Annotated Code of Maryland
20 (2001 Volume and 2002 Supplement)

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

23 **Article - Criminal Procedure**

24 6-229.

25 (A) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, A
26 DEFENDANT MAY FILE A MOTION TO REVISE, MODIFY, OR REDUCE A SENTENCE
27 WITHIN 90 DAYS AFTER THE SENTENCE IS IMPOSED.

28 (B) THE COURT RETAINS REVISORY POWER OVER THE SENTENCE FOR 1 YEAR
29 AFTER THE FILING OF THE MOTION TO REVISE, MODIFY, OR REDUCE THE SENTENCE.

1 (C) A MOTION TO REVISE, MODIFY, OR REDUCE THE SENTENCE MAY BE FILED
2 AT ANY TIME IN A CASE INVOLVING AN ILLEGAL SENTENCE, FRAUD, MISTAKE, OR
3 IRREGULARITY.

4 (D) A COURT MAY REVISE, MODIFY, OR REDUCE A SENTENCE ONLY IF:

5 (1) THE REVISION, MODIFICATION, OR REDUCTION OF THE SENTENCE IS
6 MADE ON THE RECORD IN OPEN COURT AFTER THE COURT PROVIDES AN
7 OPPORTUNITY TO HEAR TESTIMONY FROM THE DEFENDANT, THE STATE, AND ANY
8 VICTIM OR VICTIM'S REPRESENTATIVE WHO REQUESTS TO BE HEARD; AND

9 (2) THE REASONS FOR THE REVISION, MODIFICATION, OR REDUCTION
10 OF THE SENTENCE ARE STATED IN WRITING BY THE COURT.

11 (E) THE STATE'S ATTORNEY SHALL PROVIDE TO EACH VICTIM OF THE CRIME
12 THAT WAS COMMITTED BY THE DEFENDANT OR TO THE VICTIM'S REPRESENTATIVE
13 WHO HAS SUBMITTED A WRITTEN REQUEST FOR NOTIFICATION UNDER § 11-103 OR §
14 11-503 OF THIS ARTICLE, NOTICE THAT STATES:

15 (1) THAT A MOTION TO REVISE, MODIFY, OR REDUCE A SENTENCE HAS
16 BEEN FILED BY THE DEFENDANT; AND

17 (2) (I) THE DATE, TIME, AND LOCATION OF ANY HEARING TO BE HELD
18 UNDER SUBSECTION (D) OF THIS SECTION AND THAT THE VICTIM OR VICTIM'S
19 REPRESENTATIVE MAY ATTEND THE HEARING AND TESTIFY; OR

20 (II) THAT THE MOTION HAS BEEN DENIED BY THE COURT WITHOUT
21 A HEARING.

22 (F) A COURT MAY NOT INCREASE A SENTENCE BASED ON A MOTION FILED BY
23 A DEFENDANT UNDER THIS SECTION TO REVISE, MODIFY, OR REDUCE A SENTENCE.

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