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By: **Delegate Vallario**

Introduced and read first time: February 13, 2004

Assigned to: Judiciary

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A BILL ENTITLED

1 AN ACT concerning

2 **Correctional Services - Concurrent and Consecutive Sentences - Offenders**  
3 **on Parole**

4 FOR the purpose of repealing the requirement that a new sentence run consecutively  
5 to the time to be served on the original term when an individual is convicted of  
6 a crime committed while on parole; requiring a court to determine if a new  
7 sentence is to run concurrently or consecutively, as provided by a certain  
8 Maryland Rule; requiring that if a new sentence is to run consecutively, the new  
9 sentence shall begin at a certain time; providing that the reimposition of a  
10 certain sentence shall begin at a certain time; providing for the application of  
11 this Act; and generally relating to criminal sentences and revocation of parole.

12 BY repealing and reenacting, with amendments,  
13 Article - Correctional Services  
14 Section 7-401 and 7-403  
15 Annotated Code of Maryland  
16 (1999 Volume and 2003 Supplement)

17 BY repealing and reenacting, without amendments,  
18 Article - Correctional Services  
19 Section 7-502(b) and 9-202  
20 Annotated Code of Maryland  
21 (1999 Volume and 2003 Supplement)

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

24 **Article - Correctional Services**

25 7-401.

26 (a) If a parolee is alleged to have violated a condition of parole, one  
27 commissioner shall hear the case on revocation of the parole at the time and place  
28 that the Commission designates.

1 (b) (1) Each individual charged with a parole violation is entitled to be  
2 represented by counsel of the individual's choice or, if eligible, counsel provided by the  
3 Public Defender's office.

4 (2) The Commission shall keep a record of the hearing.

5 (c) If the commissioner finds from the evidence that the parolee has violated a  
6 condition of parole, the commissioner may take any action that the commissioner  
7 considers appropriate, including:

8 (1) (i) revoking the order of parole;

9 (ii) setting a future hearing date for consideration for reparole; and

10 (iii) remanding the individual to the Division of Correction or local  
11 correctional facility from which the individual was paroled; or

12 (2) continuing parole:

13 (i) without modification of its conditions; or

14 (ii) with modification of its conditions, including a requirement that  
15 the parolee spend all or part of the remaining parole period in a home detention  
16 program.

17 (d) (1) Subject to paragraph (2) of this subsection and further action by the  
18 Commission, if the order of parole is revoked, the inmate shall serve the remainder of  
19 the sentence originally imposed unless the commissioner hearing the parole  
20 revocation, in the commissioner's discretion, grants credit for time between release on  
21 parole and revocation of parole.

22 (2) An inmate may not receive credit for time between release on parole  
23 and revocation of parole if:

24 (i) the inmate was serving a sentence for a violent crime when  
25 parole was revoked; and

26 (ii) the parole was revoked due to a finding that the inmate  
27 committed a violent crime while on parole.

28 (E) SUBJECT TO SUBSECTION (D) OF THIS SECTION, IF A SENTENCE HAS  
29 COMMENCED AS PROVIDED UNDER § 9-202(C)(2) OF THIS ARTICLE AND THE INMATE  
30 IS SERVING THAT SENTENCE WHEN THE ORDER OF PAROLE IS REVOKED, THE  
31 REMAINDER OF THE SENTENCE ORIGINALLY IMPOSED SHALL BEGIN AT THE  
32 EXPIRATION OF ANY SENTENCES WHICH WERE BEGUN UNDER § 9-202(C)(2) OF THIS  
33 ARTICLE.

34 [(e)] (F) (1) The inmate may seek judicial review in the circuit court within  
35 30 days after receiving the written decision of the Commission.

36 (2) The court shall hear the action on the record.

1 7-403.

2 (a) (1) If a parolee is convicted of a crime committed while on parole and is  
3 sentenced to an additional term of imprisonment in any correctional facility in this  
4 State, [the new sentence shall run consecutive to the time to be served on the original  
5 term unless the judge imposing the new sentence expressly orders otherwise.

6 (2)] THE COURT SHALL DETERMINE IF THE NEW SENTENCE IS TO RUN  
7 CONCURRENTLY OR CONSECUTIVELY, AS REQUIRED UNDER MARYLAND RULE  
8 4-351(A)(5).

9 (2) IF THE NEW SENTENCE IS TO RUN CONSECUTIVELY:

10 (I) THE NEW SENTENCE SHALL BEGIN AS PROVIDED IN § 9-202(C)  
11 OF THIS ARTICLE; AND

12 (II) THE REIMPOSITION OF THE ORIGINAL SENTENCE ON PAROLE  
13 SHALL BEING AS PROVIDED IN § 7-401 OF THIS ARTICLE.

14 (b) If a parolee is convicted in another state of a crime committed while on  
15 parole and is sentenced to serve a term of imprisonment in a correctional facility in  
16 the other state, the Commission shall file with the managing official of the  
17 correctional facility in the other state a declaration of violation of parole to serve as a  
18 detainer on the parolee's release from the correctional facility.

19 7-502.

20 (b) An individual on mandatory supervision is subject to:

21 (1) all laws, rules, regulations, and conditions that apply to parolees; and

22 (2) any special conditions established by a commissioner.

23 9-202.

24 (a) (1) In this section the following words have the meanings indicated.

25 (2) "Division custody" means confinement resulting from a sentence to  
26 the jurisdiction of the Division of Correction.

27 (3) (i) "Non-Division custody" means any post-sentencing criminal  
28 confinement other than Division custody.

29 (ii) "Non-Division custody" includes confinement resulting from a  
30 sentence to:

31 1. a local correctional facility; or

32 2. a correctional facility in a foreign jurisdiction.

1 (b) (1) A sentence to a term of Division custody that is imposed consecutive  
2 to a term of Non-Division custody shall begin when the individual is released from  
3 Non-Division custody due to the expiration of a sentence, parole, or the application of  
4 diminution credits.

5 (2) A sentence to a term of Non-Division custody that is imposed  
6 consecutive to a term of Division custody shall begin when the individual is released  
7 from Division custody due to the expiration of a sentence, parole, or the application of  
8 diminution credits.

9 (c) A sentence imposed consecutive to a term of confinement for which the  
10 defendant is on parole shall begin:

11 (1) if, at the time of sentencing, parole is revoked, on expiration of the  
12 original term of confinement; or

13 (2) if parole is not revoked, on the date that the consecutive sentence was  
14 imposed.

15 (d) An inmate under a sentence to a term of Division custody that is  
16 concurrent or partially concurrent to a term of Non-Division custody shall be subject  
17 to Division custody immediately on release from Non-Division custody due to the  
18 expiration of a sentence, parole, or the application of diminution credits.

19 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be  
20 construed to apply only prospectively and may not be applied or interpreted to have  
21 any effect on or application to any crime committed before the effective date of this  
22 Act.

23 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take  
24 effect October 1, 2004.