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By: **Senators Mooney, Brinkley, Colburn, Della, Dyson, Greenip, Munson,  
and Stone**

Introduced and read first time: February 6, 2004

Assigned to: Judicial Proceedings

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A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure - Abuse and Sexual Abuse of a Minor - Diminution**  
3 **Credits and Parole Eligibility**

4 FOR the purpose of decreasing the number of days per month that an inmate serving  
5 a term of confinement that includes a consecutive or concurrent sentence for a  
6 crime of abuse of a minor or sexual abuse of a minor is allowed as a deduction in  
7 advance from the inmate's term of confinement; expanding certain limitations  
8 on parole eligibility and the receipt of certain credits prior to the revocation of  
9 parole to include crimes of abuse of a minor and sexual abuse of a minor;  
10 altering a certain definition; making technical corrections; and generally  
11 relating to abuse of a minor and sexual abuse of a minor.

12 BY repealing and reenacting, with amendments,  
13 Article - Correctional Services  
14 Section 3-704, 7-101(m), and 7-801  
15 Annotated Code of Maryland  
16 (1999 Volume and 2003 Supplement)

17 BY repealing and reenacting, without amendments,  
18 Article - Correctional Services  
19 Section 7-301 and 7-401  
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 3-704.

26 (a) An inmate shall be allowed a deduction in advance from the inmate's term  
27 of confinement.

1 (b) (1) The deduction allowed under subsection (a) of this section shall be  
2 calculated:

3 (i) from the first day of commitment to the custody of the  
4 Commissioner through the last day of the inmate's term of confinement;

5 (ii) except as provided in paragraph (2) of this subsection, at the  
6 rate of 10 days for each calendar month; and

7 (iii) on a prorated basis for any portion of a calendar month.

8 [(2) If an inmate's term of confinement includes a consecutive or  
9 concurrent sentence for a crime of violence as defined in § 14-101 of the Criminal Law  
10 Article or a crime of manufacturing, distributing, dispensing, or possessing a  
11 controlled dangerous substance in violation of §§ 5-602 through 5-609, § 5-612, or §  
12 5-613 of the Criminal Law Article, the deduction described in subsection (a) of this  
13 section shall be calculated at the rate of 5 days for each calendar month.]

14 (2) THE DEDUCTION DESCRIBED IN SUBSECTION (A) OF THIS SECTION  
15 SHALL BE CALCULATED AT THE RATE OF 5 DAYS FOR EACH CALENDAR MONTH IF AN  
16 INMATE'S TERM OF CONFINEMENT INCLUDES A CONSECUTIVE OR CONCURRENT  
17 SENTENCE FOR:

18 (I) ABUSE OF A MINOR UNDER § 3-601 OF THE CRIMINAL LAW  
19 ARTICLE;

20 (II) SEXUAL ABUSE OF A MINOR UNDER § 3-602 OF THE CRIMINAL  
21 LAW ARTICLE;

22 (III) A CRIME OF VIOLENCE AS DEFINED IN § 14-101 OF THE  
23 CRIMINAL LAW ARTICLE; OR

24 (IV) A CRIME OF MANUFACTURING, DISTRIBUTING, DISPENSING, OR  
25 POSSESSING A CONTROLLED DANGEROUS SUBSTANCE IN VIOLATION OF §§ 5-602  
26 THROUGH 5-609, § 5-612, OR § 5-613 OF THE CRIMINAL LAW ARTICLE.

27 (c) A deduction under this section may not be allowed for a period during  
28 which an inmate does not receive credit for service of the inmate's term of  
29 confinement, including a period:

30 (1) during which the inmate's sentence is stayed;

31 (2) during which the inmate is not in the custody of the Commissioner  
32 because of escape; or

33 (3) for which the Maryland Parole Commission has declined to grant  
34 credit after revocation of parole or mandatory supervision.

35 7-101.

36 (m) "Violent crime" means:

- 1 (1) a crime of violence as defined in § 14-101 of the Criminal Law  
2 Article; [or]
- 3 (2) burglary in the first, second, or third degree;
- 4 (3) ABUSE OF A MINOR UNDER § 3-601 OF THE CRIMINAL LAW ARTICLE;  
5 OR
- 6 (4) SEXUAL ABUSE OF A MINOR UNDER § 3-602 OF THE CRIMINAL LAW  
7 ARTICLE.  
8 7-301.

9 (a) (1) Except as otherwise provided in this section, the Commission shall  
10 request that the Division of Parole and Probation make an investigation for inmates  
11 in a local correctional facility and the Division of Correction make an investigation for  
12 inmates in a State correctional facility that will enable the Commission to determine  
13 the advisability of granting parole to an inmate who:

- 14 (i) has been sentenced under the laws of the State to serve a term  
15 of 6 months or more in a correctional facility; and
- 16 (ii) has served in confinement one-fourth of the inmate's aggregate  
17 sentence.

18 (2) Except as otherwise provided by law or in a predetermined parole  
19 release agreement, an inmate is not eligible for parole until the inmate has served in  
20 confinement one-fourth of the inmate's aggregate sentence.

21 (b) Except as provided in subsection (c) of this section, if an inmate has been  
22 sentenced to a term of imprisonment during which the inmate is eligible for parole  
23 and a term of imprisonment during which the inmate is not eligible for parole, the  
24 inmate is not eligible for parole consideration under subsection (a) of this section until  
25 the inmate has served the greater of:

- 26 (1) one-fourth of the inmate's aggregate sentence; or
- 27 (2) a period equal to the term during which the inmate is not eligible for  
28 parole.

29 (c) (1) (i) Except as provided in subparagraph (ii) of this paragraph, an  
30 inmate who has been sentenced to the Division of Correction after being convicted of  
31 a violent crime committed on or after October 1, 1994, is not eligible for parole until  
32 the inmate has served the greater of:

- 33 1. one-half of the inmate's aggregate sentence for violent  
34 crimes; or
- 35 2. one-fourth of the inmate's total aggregate sentence.

1 (ii) An inmate who has been sentenced to the Division of Correction  
2 after being convicted of a violent crime committed on or after October 1, 1994, and  
3 who has been sentenced to more than one term of imprisonment, including a term  
4 during which the inmate is eligible for parole and a term during which the inmate is  
5 not eligible for parole, is not eligible for parole until the inmate has served the greater  
6 of:

- 7 1. one-half of the inmate's aggregate sentence for violent  
8 crimes;
- 9 2. one-fourth of the inmate's total aggregate sentence; or
- 10 3. a period equal to the term during which the inmate is not  
11 eligible for parole.

12 (2) An inmate who is serving a term of imprisonment for a violent crime  
13 committed on or after October 1, 1994, shall receive an administrative review of the  
14 inmate's progress in the correctional facility after the inmate has served the greater  
15 of:

- 16 (i) one-fourth of the inmate's aggregate sentence; or
- 17 (ii) if the inmate is serving a term of imprisonment that includes a  
18 mandatory term during which the inmate is not eligible for parole, a period equal to  
19 the term during which the inmate is not eligible for parole.

20 (d) (1) Except as provided in paragraphs (2) and (3) of this subsection, an  
21 inmate who has been sentenced to life imprisonment is not eligible for parole  
22 consideration until the inmate has served 15 years or the equivalent of 15 years  
23 considering the allowances for diminution of the inmate's term of confinement under  
24 § 6-218 of the Criminal Procedure Article and Title 3, Subtitle 7 of this article.

25 (2) An inmate who has been sentenced to life imprisonment as a result of  
26 a proceeding under § 2-303 or § 2-304 of the Criminal Law Article is not eligible for  
27 parole consideration until the inmate has served 25 years or the equivalent of 25  
28 years considering the allowances for diminution of the inmate's term of confinement  
29 under § 6-218 of the Criminal Procedure Article and Title 3, Subtitle 7 of this article.

30 (3) (i) If an inmate has been sentenced to imprisonment for life  
31 without the possibility of parole under § 2-203 or § 2-304 of the Criminal Law Article,  
32 the inmate is not eligible for parole consideration and may not be granted parole at  
33 any time during the inmate's sentence.

34 (ii) This paragraph does not restrict the authority of the Governor  
35 to pardon or remit any part of a sentence under § 7-601 of this title.

36 (4) If eligible for parole under this subsection, an inmate serving a term  
37 of life imprisonment may only be paroled with the approval of the Governor.

1 7-401.

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

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

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

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

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

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

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

16 (2) continuing parole:

17 (i) without modification of its conditions; or

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

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

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

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

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

32 (e) (1) The inmate may seek judicial review in the circuit court within 30  
33 days after receiving the written decision of the Commission.

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

1 7-801.

2 (a) In this section, "victim" means:

3 (1) an individual who suffers personal physical injury or death as a  
4 direct result of a crime;

5 (2) [a victim of child abuse under § 3-601 or § 3-602 of the Criminal  
6 Law Article;

7 (3)] a victim of a violent crime; or

8 [(4)] (3) if the victim is deceased, disabled, or a minor, a designated  
9 family member or other representative of the victim.

10 (b) (1) At least 90 days before an inmate's parole release hearing, the  
11 Department shall notify the victim or the victim's designated representative in  
12 writing, directed to the most current address on file, that the parole release hearing  
13 has been scheduled if:

14 (i) the victim or the victim's representative filed a notification  
15 request form under § 11-104 of the Criminal Procedure Article; or

16 (ii) the victim makes a written request to the Department for  
17 notification and maintains a current address on file with the Department.

18 (2) The victim may designate in writing to the Department the name and  
19 address of a representative who is a resident of the State to receive notice for the  
20 victim.

21 (c) (1) Not later than 30 days after the date of the Department's notice  
22 under subsection (b) of this section, the victim of a violent crime may submit to the  
23 Department a written request that the Division of Parole and Probation be required  
24 to complete an updated victim impact statement.

25 (2) If the victim submits a request as authorized by paragraph (1) of this  
26 subsection, the Department shall direct the Division of Parole and Probation to:

27 (i) complete the updated statement at least 30 days before the  
28 parole release hearing; and

29 (ii) send promptly the updated victim impact statement to the  
30 Commission.

31 (d) A victim may:

32 (1) at least 30 days before the parole release hearing:

33 (i) make a written recommendation to the Commission on the  
34 advisability of releasing the inmate on parole; and

1                   (ii)       request that the inmate be prohibited from having any contact  
2 with the victim as a condition of parole, mandatory supervision, work release, or other  
3 administrative release; and

4                   (2)       request a meeting with a commissioner.

5       (e)       The Commission shall make an updated victim impact statement and a  
6 victim's written recommendation available for review by the inmate or the inmate's  
7 representative under § 7-303(b) of this title.

8       (f)       The Commission shall consider an updated victim impact statement or  
9 victim's written recommendation at the parole release hearing.

10       (g)       If a victim requested an open hearing under § 7-304 of this title, the victim  
11 may present oral testimony at the inmate's parole release hearing in a manner  
12 established in regulations adopted by the Commission.

13       (h)       The Department shall notify promptly the victim or the victim's designated  
14 representative of the decision of the Commission regarding parole for the inmate.

15       SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
16 October 1, 2004.