
By: **Delegates Smigiel, Bates, Boteler, Cluster, Costa, Dwyer, Frank, Hogan,
Kach, Myers, Shank, Sossi, and Stull**

Introduced and read first time: January 26, 2005

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Crimes Committed with Firearms - Mandatory Minimum Sentences and**
3 **Imprisonment at Hard Labor**

4 FOR the purpose of requiring the Division of Correction or the managing official of a
5 local correctional facility to require certain inmates who are sentenced to a
6 certain type of imprisonment to engage in hard labor for a certain minimum
7 period of hours per week with certain exceptions; altering certain penalties for
8 certain crimes committed with certain firearms to include imprisonment for
9 certain periods at hard labor; extending the period during which a person
10 convicted of certain crimes committed with certain firearms is not eligible for
11 parole, subject to certain exceptions; establishing a certain mandatory minimum
12 penalty for a certain crime involving the use or possession of a machine gun in
13 the commission or attempted commission of a crime of violence; defining a
14 certain term; and generally relating to crimes committed with firearms and
15 mandatory minimum sentences and imprisonment at hard labor.

16 BY repealing and reenacting, with amendments,
17 Article - Correctional Services
18 Section 9-501
19 Annotated Code of Maryland
20 (1999 Volume and 2004 Supplement)

21 BY repealing and reenacting, without amendments,
22 Article - Correctional Services
23 Section 9-502
24 Annotated Code of Maryland
25 (1999 Volume and 2004 Supplement)

26 BY adding to
27 Article - Correctional Services
28 Section 9-502.1
29 Annotated Code of Maryland

1 (1999 Volume and 2004 Supplement)

2 BY repealing and reenacting, with amendments,
3 Article - Criminal Law
4 Section 1-101, 4-204, 4-306(b), and 4-404
5 Annotated Code of Maryland
6 (2002 Volume and 2004 Supplement)

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

9 **Article - Correctional Services**

10 9-501.

11 (a) In this subtitle the following words have the meanings indicated.

12 (b) (1) "County roads authority" means the governmental entity that has
13 control of the public roads of a county.

14 (2) "County roads authority" includes, in a county in which the board of
15 county commissioners has control of the public roads of the county, the board of
16 county commissioners.

17 (C) (1) "HARD LABOR" MEANS COMPULSORY PHYSICAL ACTIVITY FOR THE
18 ATTAINMENT OF SOME OBJECT OTHER THAN RECREATION OR AMUSEMENT.

19 (2) "HARD LABOR" DOES NOT INCLUDE PHYSICAL ACTIVITY THAT IS NOT
20 WITHIN THE ABILITY OF AN INDIVIDUAL.

21 [(c)] (D) "Public roads" includes highways, roads, bridges, and streets under
22 the jurisdiction of the State or a county or municipal corporation of the State.

23 9-502.

24 It is the policy of the State that, because of the enforced idleness of inmates, it is
25 necessary and desirable that useful work on projects in the State be found for inmates
26 and that those inmates who may be used safely for maintenance, construction, or
27 reconstruction projects shall be assigned that work.

28 9-502.1.

29 (A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THE DIVISION
30 OF CORRECTION OR THE MANAGING OFFICIAL OF A LOCAL CORRECTIONAL FACILITY
31 SHALL REQUIRE EACH ABLE-BODIED INMATE WHO HAS BEEN SENTENCED TO A
32 TERM OF IMPRISONMENT AT HARD LABOR TO ENGAGE IN HARD LABOR FOR NOT
33 LESS THAN 40 HOURS PER WEEK.

1 (B) THE DIVISION OF CORRECTION OR THE MANAGING OFFICIAL OF A LOCAL
2 CORRECTIONAL FACILITY MAY:

3 (1) SUBSTITUTE NOT MORE THAN 20 HOURS PER WEEK OF
4 PARTICIPATION BY AN INMATE IN AN EDUCATIONAL, TRAINING, OR TREATMENT
5 PROGRAM FOR AN EQUIVALENT NUMBER OF HOURS OF HARD LABOR; AND

6 (2) RESTRICT OR OTHERWISE LIMIT AN INMATE'S PARTICIPATION IN
7 HARD LABOR IF THE PARTICIPATION UNREASONABLY THREATENS THE SAFETY OR
8 SECURITY OF THE PUBLIC, THE CORRECTIONAL INSTITUTION, OR THE INMATE.

9 **Article - Criminal Law**

10 1-101.

11 (a) In this article the following words have the meanings indicated.

12 (b) "Correctional facility" has the meaning stated in § 1-101 of the
13 Correctional Services Article.

14 (c) "Counterfeit" means to forge, counterfeit, materially alter, or falsely make.

15 (d) "County" means a county of the State or Baltimore City.

16 (E) "HARD LABOR" HAS THE MEANING STATED IN § 9-501 OF THE
17 CORRECTIONAL SERVICES ARTICLE.

18 [(e)] (F) "Inmate" has the meaning stated in § 1-101 of the Correctional
19 Services Article.

20 [(f)] (G) "Local correctional facility" has the meaning stated in § 1-101 of the
21 Correctional Services Article.

22 [(g)] (H) "Minor" means an individual under the age of 18 years.

23 [(h)] (I) "Person" means an individual, sole proprietorship, partnership, firm,
24 association, corporation, or other entity.

25 [(i)] (J) "State" means:

26 (1) a state, possession, territory, or commonwealth of the United States;
27 or

28 (2) the District of Columbia.

29 [(j)] (K) "State correctional facility" has the meaning stated in § 1-101 of the
30 Correctional Services Article.

1 4-204.

2 (a) A person may not use an antique firearm capable of being concealed on the
3 person or any handgun in the commission of a crime of violence, as defined in § 5-101
4 of the Public Safety Article, or any felony, whether the antique firearm or handgun is
5 operable or inoperable at the time of the crime.

6 (b) (1) (i) A person who violates this section is guilty of a misdemeanor
7 and, in addition to any other penalty imposed for the crime of violence or felony, shall
8 be sentenced to imprisonment AT HARD LABOR for not less than [5] 10 years and not
9 exceeding 20 years.

10 (ii) The court may not impose less than the minimum sentence of
11 [5] 10 years AT HARD LABOR and, except as otherwise provided in § 4-305 of the
12 Correctional Services Article, the person is not eligible for parole in less than [5] 10
13 years.

14 (2) For each subsequent violation, the sentence shall be consecutive to
15 and not concurrent with any other sentence imposed for the crime of violence or
16 felony.

17 4-306.

18 (b) (1) A person who uses an assault pistol, or a magazine that has a
19 capacity of more than 20 rounds of ammunition, in the commission of a felony or a
20 crime of violence as defined in § 5-101 of the Public Safety Article is guilty of a
21 misdemeanor and on conviction, in addition to any other sentence imposed for the
22 felony or crime of violence, shall be sentenced under this subsection.

23 (2) (i) For a first violation, the person shall be sentenced to
24 imprisonment for not less than [5] 10 years AT HARD LABOR and not exceeding 20
25 years.

26 (ii) The court may not impose less than the minimum sentence of
27 [5] 10 years AT HARD LABOR.

28 (iii) The mandatory minimum sentence of [5] 10 years AT HARD
29 LABOR may not be suspended.

30 (iv) Except as otherwise provided in § 4-305 of the Correctional
31 Services Article, the person is not eligible for parole in less than [5] 10 years.

32 (3) (i) For each subsequent violation, the person shall be sentenced to
33 imprisonment for not less than [10] 15 years AT HARD LABOR and not exceeding 20
34 years.

35 (ii) The court may not impose less than the minimum sentence of
36 [10] 15 years AT HARD LABOR.

1 (iii) A sentence imposed under this paragraph shall be consecutive
2 to and not concurrent with any other sentence imposed for the felony or crime of
3 violence.

4 4-404.

5 (a) A person may not use or possess a machine gun in the commission or
6 attempted commission of a crime of violence.

7 (b) (1) A person who violates this section is guilty of a felony and on
8 conviction is subject to imprisonment AT HARD LABOR FOR NOT LESS THAN 10 YEARS
9 AND not exceeding 20 years.

10 (2) THE COURT MAY NOT IMPOSE LESS THAN THE MINIMUM SENTENCE
11 OF 10 YEARS AT HARD LABOR.

12 (3) THE MANDATORY MINIMUM SENTENCE OF 10 YEARS AT HARD LABOR
13 MAY NOT BE SUSPENDED.

14 (4) EXCEPT AS OTHERWISE PROVIDED IN § 4-305 OF THE CORRECTIONAL
15 SERVICES ARTICLE, THE PERSON IS NOT ELIGIBLE FOR PAROLE IN LESS THAN 10
16 YEARS.

17 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
18 October 1, 2005.