UNOFFICIAL COPY OF HOUSE BILL 1137

R3 5lr1479 HB 888/04 - JUD

By: Delegates Dumais, Bronrott, Aumann, Barkley, Cryor, Feldman, Hogan, King, Lee, Mandel, Menes, Petzold, Quinter, Shank, Shewell, and Taylor

Introduced and read first time: February 11, 2005

Assigned to: Judiciary

A BILL ENTITLED

| 1 | AN | ACT | concerning |
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- 2 Motor Vehicles - Drunk and Drugged Driving and Homicide or 3
- Life-Threatening Injury by Motor Vehicle Offenses Probation Before
- 4 Judgment
- 5 FOR the purpose of extending the time period during which a court is prohibited from
- staying the entry of judgment and placing a person on probation for a 6
- 7 subsequent violation of certain alcohol- or drug-related driving offenses or
- 8 certain homicide or life-threatening injury by motor vehicle offenses if the
- 9 person previously was convicted of or placed on probation for certain alcohol- or
- drug-related driving offenses or certain homicide or life-threatening injury by 10
- motor vehicle offenses; and generally relating to certain drunk and drugged 11
- 12 driving and homicide or life-threatening injury by motor vehicle offenses and
- 13 probation before judgment.
- 14 BY repealing and reenacting, without amendments,
- Article Criminal Procedure 15
- 16 Section 6-220(b) and (c)
- 17 Annotated Code of Maryland
- 18 (2001 Volume and 2004 Supplement)
- 19 BY repealing and reenacting, with amendments,
- 20 Article - Criminal Procedure
- 21 Section 6-220(d)
- Annotated Code of Maryland 22
- 23 (2001 Volume and 2004 Supplement)
- SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF 24
- 25 MARYLAND, That the Laws of Maryland read as follows:

1 Article - Criminal Procedure 2 6-220. When a defendant pleads guilty or nolo contendere or is found guilty 3 (b) (1) of a crime, a court may stay the entering of judgment, defer further proceedings, and 5 place the defendant on probation subject to reasonable conditions if: the court finds that the best interests of the defendant and the 6 (i) public welfare would be served; and 8 the defendant gives written consent after determination of guilt (ii) or acceptance of a nolo contendere plea. 10 (2)Subject to paragraphs (3) and (4) of this subsection, the conditions 11 may include an order that the defendant: 12 (i) pay a fine or monetary penalty to the State or make restitution; 13 or 14 participate in a rehabilitation program, the parks program, or a (ii) 15 voluntary hospital program. Before the court orders a fine, monetary penalty, or restitution, the 16 17 defendant is entitled to notice and a hearing to determine the amount of the fine, 18 monetary penalty, or restitution, what payment will be required, and how payment 19 will be made. 20 (4) Any fine or monetary penalty imposed as a condition of probation 21 shall be within the amount set by law for a violation resulting in conviction. 22 As a condition of probation, the court may order a person to a term of custodial confinement or imprisonment. 24 When the crime for which the judgment is being stayed is for a 25 violation of § 21-902 of the Transportation Article or § 2-503, § 2-504, § 2-505, § 26 2-506, or § 3-211 of the Criminal Law Article, the court: 27 before imposing a period of probation, may order the 28 Department of Health and Mental Hygiene to evaluate the defendant in accordance 29 with § 8-505 of the Health - General Article; 30 (ii) if an evaluation was ordered under item (i) of this paragraph, 31 shall review the evaluation before imposing a period of probation; and 32 shall impose a period of probation and, as a condition of the (iii) 33 probation: 1. shall require the defendant to participate in an alcohol or 34

35 drug treatment or education program approved by the Department of Health and

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- 1 Mental Hygiene, unless the court finds and states on the record that the interests of
- 2 the defendant and the public do not require the imposition of this condition; and
- 3 2. may prohibit the defendant from operating a motor vehicle
- 4 unless the motor vehicle is equipped with an ignition interlock system under § 27-107
- 5 of the Transportation Article.
- 6 (2) When the crime for which the judgment is being stayed is for a
- 7 violation of any provision of Title 5 of the Criminal Law Article, the court shall impose
- 8 a period of probation and, as a condition of probation, require the defendant to
- 9 participate in a drug treatment or education program approved by the Department of
- 10 Health and Mental Hygiene, unless the court finds and states on the record that the
- 11 interests of the defendant and the public do not require the imposition of this
- 12 condition.
- 13 (d) Notwithstanding subsections (b) and (c) of this section, a court may not
- 14 stay the entering of judgment and place a defendant on probation for:
- 15 (1) a violation of § 21-902 of the Transportation Article or § 2-503, §
- 16 2-504, § 2-505, § 2-506, or § 3-211 of the Criminal Law Article, if within the
- 17 preceding [5] 10 years the defendant has been convicted under § 21-902 of the
- 18 Transportation Article or § 2-503, § 2-504, § 2-505, § 2-506, or § 3-211 of the
- 19 Criminal Law Article, or has been placed on probation in accordance with this section,
- 20 after being charged with a violation of § 21-902 of the Transportation Article or §
- 21 2-503, § 2-504, § 2-505, § 2-506, or § 3-211 of the Criminal Law Article;
- 22 (2) a second or subsequent controlled dangerous substance crime under
- 23 Title 5 of the Criminal Law Article; or
- 24 (3) a violation of any of the provisions of §§ 3-303 through 3-307 of the
- 25 Criminal Law Article for a crime involving a person under the age of 16 years.
- 26 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
- 27 October 1, 2005.