
By: **Delegates Kelley, Anderson, Benson, Bobo, Bronrott, Cane, Gaines,
Harrison, Haynes, Holmes, Howard, Jones, Kirk, Marriott, Menes,
Murray, Nathan-Pulliam, Parker, Patterson, Pugh, Ramirez, Smigiel,
Taylor, F. Turner, and V. Turner**

Introduced and read first time: February 8, 2006

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Judicial Discretion - Controlled Dangerous Substance Crimes - Minimum**
3 **Penalties - Repeal**

4 FOR the purpose of repealing certain minimum penalties for certain repeat offenders
5 of crimes involving certain controlled dangerous substances; and generally
6 relating to penalties for controlled dangerous substance crimes.

7 BY repealing and reenacting, with amendments,
8 Article - Criminal Law
9 Section 5-609
10 Annotated Code of Maryland
11 (2002 Volume and 2005 Supplement)

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

14 **Article - Criminal Law**

15 5-609.

16 (a) Except as otherwise provided in this section, a person who violates a
17 provision of §§ 5-602 through 5-606 of this subtitle with respect to any of the
18 following controlled dangerous substances is guilty of a felony and on conviction is
19 subject to imprisonment not exceeding 20 years or a fine not exceeding \$20,000 or
20 both:

- 21 (1) phencyclidine;
- 22 (2) 1-(1-phenylcyclohexyl) piperidine;
- 23 (3) 1-phenylcyclohexylamine;
- 24 (4) 1-piperidinocyclohexanecarbonitrile;

- 1 (5) N-ethyl-1-phenylcyclohexylamine;
- 2 (6) 1-(1-phenylcyclohexyl)-pyrrolidine;
- 3 (7) 1-(1-(2-thienyl)-cyclohexyl)-piperidine;
- 4 (8) lysergic acid diethylamide; or
- 5 (9) 750 grams or more of 3, 4-methylenedioxymethamphetamine
- 6 (MDMA).

7 (b) (1) A person who is convicted under subsection (a) of this section or of

8 conspiracy to commit a crime included in subsection (a) of this section shall be

9 sentenced to imprisonment for not less than 10 years and is subject to a fine not

10 exceeding \$100,000 if the person previously has been convicted once:

11 (i) under subsection (a) of this section or § 5-608 of this subtitle;

12 (ii) of conspiracy to commit a crime included in subsection (a) of this

13 section or § 5-608 of this subtitle;

14 (iii) of a crime under the laws of another state or the United States

15 that would be a crime included in subsection (a) of this section or § 5-608 of this

16 subtitle if committed in this State; or

17 (iv) of any combination of these crimes.

18 (2) [The court may not suspend the mandatory minimum sentence to

19 less than 10 years.

20 (3) Except as provided in § 4-305 of the Correctional Services Article, the

21 person is not eligible for parole during the mandatory minimum sentence.

22 (4)] A person convicted under subsection (a) of this section is not

23 prohibited from participating in a drug treatment program under § 8-507 of the

24 Health - General Article because of the length of the sentence.

25 (c) (1) A person who is convicted under subsection (a) of this section or of

26 conspiracy to commit a crime included in subsection (a) of this section shall be

27 sentenced to imprisonment for not less than 25 years and is subject to a fine not

28 exceeding \$100,000 if the person previously:

29 (i) has served at least one term of confinement of at least 180 days

30 in a correctional institution as a result of a conviction under subsection (a) of this

31 section, § 5-608 of this subtitle, or § 5-614 of this subtitle; and

32 (ii) if the convictions do not arise from a single incident, has been

33 convicted twice:

34 1. under subsection (a) of this section or § 5-608 of this

35 subtitle;

1 2. of conspiracy to commit a crime included in subsection (a)
2 of this section or § 5-608 of this subtitle;

3 3. of a crime under the laws of another state or the United
4 States that would be a crime included in subsection (a) of this section or § 5-608 of
5 this subtitle if committed in this State; or

6 4. of any combination of these crimes.

7 (2) [The court may not suspend any part of the mandatory minimum
8 sentence of 25 years.

9 (3) Except as provided in § 4-305 of the Correctional Services Article, the
10 person is not eligible for parole during the mandatory minimum sentence.

11 (4)] A separate occasion is one in which the second or succeeding crime is
12 committed after there has been a charging document filed for the preceding crime.

13 (d) [(1)] A person who is convicted under subsection (a) of this section or of
14 conspiracy to commit a crime included in subsection (a) of this section shall be
15 sentenced to imprisonment for not less than 40 years and is subject to a fine not
16 exceeding \$100,000 if the person previously has served three separate terms of
17 confinement as a result of three separate convictions:

18 [(i)] (1) under subsection (a) of this section or § 5-608 of this
19 subtitle;

20 [(ii)] (2) of conspiracy to commit a crime included in subsection (a)
21 of this section or § 5-608 of this subtitle;

22 [(iii)] (3) of a crime under the laws of another state or the United
23 States that would be a crime included in subsection (a) of this section or § 5-608 of
24 this subtitle if committed in this State; or

25 [(iv)] (4) of any combination of these crimes.

26 [(2) The court may not suspend any part of the mandatory minimum
27 sentence of 40 years.

28 (3) Except as provided in § 4-305 of the Correctional Services Article, the
29 person is not eligible for parole during the mandatory minimum sentence.]

30 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
31 October 1, 2006.