

# HOUSE BILL 1066

E2, A1, R3

7lr1432

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By: **Delegates Taylor, DeBoy, Hubbard, Hucker, Kaiser, Krebs, Lee, McKee, Minnick, Montgomery, Rice, and Vaughn**

Introduced and read first time: February 9, 2007

Assigned to: Judiciary

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## A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – Parole and Probation – Alcohol Monitoring Devices**

3 FOR the purpose of authorizing the Parole Commission or a Commission panel to  
4 require in a parole order or a modification of a parole order that a person who  
5 was convicted of a crime in which alcohol consumption by the person was a  
6 factor wear a certain alcohol monitoring device; authorizing a court to require as  
7 a condition of probation before judgment that a defendant wear a certain  
8 alcohol monitoring device if the crime for which the judgment is being stayed is  
9 one in which alcohol consumption by the defendant was a factor; authorizing a  
10 court to require as a condition of probation that a defendant wear a certain  
11 device if the crime for which the defendant is placed on probation is one in  
12 which alcohol consumption by the defendant was a factor; and generally  
13 relating to conditions of parole and probation and alcohol monitoring devices.

14 BY repealing and reenacting, without amendments,  
15 Article – Correctional Services  
16 Section 7–307  
17 Annotated Code of Maryland  
18 (1999 Volume and 2006 Supplement)

19 BY repealing and reenacting, with amendments,  
20 Article – Correctional Services  
21 Section 7–308 and 7–402(a)  
22 Annotated Code of Maryland  
23 (1999 Volume and 2006 Supplement)

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY repealing and reenacting, without amendments,  
2 Article – Criminal Procedure  
3 Section 6–220(b)  
4 Annotated Code of Maryland  
5 (2001 Volume and 2006 Supplement)

6 BY repealing and reenacting, with amendments,  
7 Article – Criminal Procedure  
8 Section 6–220(c) and 6–221  
9 Annotated Code of Maryland  
10 (2001 Volume and 2006 Supplement)

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

13 **Article – Correctional Services**

14 7–307.

15 (a) (1) The chairperson of the Commission shall assign at least two  
16 commissioners to hear cases for parole release as a panel.

17 (2) Each proceeding before a Commission panel shall be conducted in  
18 accordance with this section.

19 (b) (1) (i) A Commission panel that consists of two commissioners  
20 shall determine, by unanimous vote, whether the inmate is suitable for parole in  
21 accordance with the factors and other information specified in § 7–305 of this subtitle.

22 (ii) If the two–commissioner panel is unable to reach a  
23 unanimous decision, the chairperson of the Commission shall convene a  
24 three–commissioner panel as soon as practicable to rehear the case.

25 (2) A Commission panel that consists of three commissioners shall  
26 determine, by majority vote, whether the inmate is suitable for parole in accordance  
27 with the factors and other information specified in § 7–305 of this subtitle.

28 (c) (1) The Commission panel shall inform the inmate and the  
29 appropriate correctional authority of the Commission’s decision as soon as possible.

30 (2) If parole is denied, the Commission shall give the inmate a written  
31 report of its findings within 30 days after the hearing.

1 7-308.

2 (a) A parole shall be evidenced by a written order.

3 (b) Parole entitles the recipient:

4 (1) to leave the correctional facility in which the recipient was  
5 confined; and

6 (2) if the recipient satisfactorily complies with all the terms and  
7 conditions provided in the parole order, to serve the remainder of the recipient's term  
8 of confinement outside the confines of the correctional facility.

9 (C) AS A CONDITION IN THE PAROLE ORDER, A COMMISSION PANEL  
10 MAY REQUIRE A RECIPIENT WHO WAS CONVICTED OF A CRIME IN WHICH  
11 ALCOHOL CONSUMPTION BY THE RECIPIENT WAS A FACTOR TO WEAR AT THE  
12 RECIPIENT'S EXPENSE AN ALCOHOL MONITORING DEVICE THAT CONTINUOUSLY  
13 MONITORS BLOOD ALCOHOL CONCENTRATION.

14 [(c)](D) A parolee remains in legal custody until the expiration of the  
15 parolee's full, undiminished term.

16 [(d)](E) The chairperson of the Commission shall file a copy of the parole  
17 order with the clerk of the court in which the parolee was sentenced.

18 7-402.

19 (a) (1) On recommendation of the Division of Parole and Probation or on  
20 the Commission's own initiative, the Commission may modify the conditions of parole  
21 at any time for good cause.

22 (2) The modification may include [imposing home detention] as a  
23 condition of parole:

24 (I) IMPOSING HOME DETENTION; AND

25 (II) FOR A RECIPIENT WHO WAS CONVICTED OF A CRIME IN  
26 WHICH ALCOHOL CONSUMPTION BY THE RECIPIENT WAS A FACTOR,  
27 REQUIRING THE PAROLEE TO WEAR AT THE PAROLEE'S EXPENSE AN ALCOHOL

**MONITORING DEVICE THAT CONTINUOUSLY MONITORS BLOOD ALCOHOL  
CONCENTRATION.**

**Article – Criminal Procedure**

6–220.

(b) (1) When a defendant pleads guilty or nolo contendere or is found guilty of a crime, a court may stay the entering of judgment, defer further proceedings, and place the defendant on probation subject to reasonable conditions if:

(i) the court finds that the best interests of the defendant and the public welfare would be served; and

(ii) the defendant gives written consent after determination of guilt or acceptance of a nolo contendere plea.

(2) Subject to paragraphs (3) and (4) of this subsection, the conditions may include an order that the defendant:

(i) pay a fine or monetary penalty to the State or make restitution; or

(ii) participate in a rehabilitation program, the parks program, or a voluntary hospital program.

(3) Before the court orders a fine, monetary penalty, or restitution, the defendant is entitled to notice and a hearing to determine the amount of the fine, monetary penalty, or restitution, what payment will be required, and how payment will be made.

(4) Any fine or monetary penalty imposed as a condition of probation shall be within the amount set by law for a violation resulting in conviction.

(5) As a condition of probation, the court may order a person to a term of custodial confinement or imprisonment.

(c) (1) When the crime for which the judgment is being stayed is for a violation of § 21–902 of the Transportation Article or § 2–503, § 2–504, § 2–505, § 2–506, or § 3–211 of the Criminal Law Article, the court:

1 (i) before imposing a period of probation, may order the  
2 Department of Health and Mental Hygiene to evaluate the defendant in accordance  
3 with § 8–505 of the Health – General Article;

4 (ii) if an evaluation was ordered under item (i) of this  
5 paragraph, shall review the evaluation before imposing a period of probation; and

6 (iii) shall impose a period of probation and, as a condition of the  
7 probation:

8 1. shall require the defendant to participate in an  
9 alcohol or 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; and

13 2. may prohibit the defendant from operating a motor  
14 vehicle unless the motor vehicle is equipped with an ignition interlock system under §  
15 27–107 of the Transportation Article.

16 (2) When the crime for which the judgment is being stayed is for a  
17 violation of any provision of Title 5 of the Criminal Law Article, the court shall impose  
18 a period of probation and, as a condition of probation, require the defendant to  
19 participate in a drug treatment or education program approved by the Department of  
20 Health and Mental Hygiene, unless the court finds and states on the record that the  
21 interests of the defendant and the public do not require the imposition of this  
22 condition.

23 **(3) WHEN THE CRIME FOR WHICH THE JUDGMENT IS BEING**  
24 **STAYED IS ONE IN WHICH ALCOHOL CONSUMPTION BY THE DEFENDANT WAS A**  
25 **FACTOR, THE COURT SHALL IMPOSE A PERIOD OF PROBATION AND MAY**  
26 **REQUIRE AS A CONDITION OF PROBATION THAT THE DEFENDANT AT THE**  
27 **DEFENDANT’S EXPENSE WEAR AN ALCOHOL MONITORING DEVICE THAT**  
28 **CONTINUOUSLY MONITORS BLOOD ALCOHOL CONCENTRATION.**

29 6–221.

30 **(A)** On entering a judgment of conviction, the court may suspend the  
31 imposition or execution of sentence and place the defendant on probation on the  
32 conditions that the court considers proper.

1           **(B) WHEN THE CRIME FOR WHICH THE SENTENCE BEING SUSPENDED**  
2 **IS ONE IN WHICH ALCOHOL CONSUMPTION BY THE DEFENDANT WAS A FACTOR,**  
3 **THE COURT MAY REQUIRE AS A CONDITION OF PROBATION THAT THE**  
4 **DEFENDANT AT THE DEFENDANT'S EXPENSE WEAR AN ALCOHOL MONITORING**  
5 **DEVICE THAT CONTINUOUSLY MONITORS BLOOD ALCOHOL CONCENTRATION.**

6           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
7 October 1, 2007.