

HOUSE BILL 301

R3

9lr0233
CF SB 259

By: **The Speaker (By Request – Administration) (Task Force to Combat Driving Under the Influence of Drugs and Alcohol) and Delegates Dumais, Bronrott, and Waldstreicher**

Introduced and read first time: January 29, 2009

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – Drunk and Drugged Driving – Probation Before**
3 **Judgment**

4 FOR the purpose of extending the period of time preceding a subsequent violation by a
5 defendant of certain alcohol– or drug–related driving offenses during which a
6 previous conviction or probation of the defendant for certain alcohol– or
7 drug–related driving offenses prohibits a court from staying entry of judgment
8 and placing the defendant on probation for the subsequent violation; and
9 generally relating to probation before judgment for certain alcohol– or
10 drug–related driving offenses.

11 BY repealing and reenacting, with amendments,
12 Article – Criminal Procedure
13 Section 6–220(d) and 6–230
14 Annotated Code of Maryland
15 (2008 Replacement Volume)

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

18 **Article – Criminal Procedure**

19 6–220.

20 (d) Notwithstanding subsections (b) and (c) of this section, a court may not
21 stay the entering of judgment and place a defendant on probation for:

22 (1) a violation of § 21–902 of the Transportation Article or § 2–503, §
23 2–504, § 2–505, § 2–506, or § 3–211 of the Criminal Law Article, if within the

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 preceding [5] 10 years the defendant has been convicted under § 21-902 of the
2 Transportation Article or § 2-503, § 2-504, § 2-505, § 2-506, or § 3-211 of the
3 Criminal Law Article, or has been placed on probation in accordance with this section,
4 after being charged with a violation of § 21-902 of the Transportation Article or §
5 2-503, § 2-504, § 2-505, § 2-506, or § 3-211 of the Criminal Law Article;

6 (2) a second or subsequent controlled dangerous substance crime
7 under Title 5 of the Criminal Law Article;

8 (3) a violation of any of the provisions of §§ 3-303 through 3-307, §§
9 3-309 through 3-312, § 3-315, or § 3-602 of the Criminal Law Article for a crime
10 involving a person under the age of 16 years; or

11 (4) a moving violation, as defined in § 11-136.1 of the Transportation
12 Article, if:

13 (i) the defendant holds a provisional license under § 16-111 of
14 the Transportation Article; and

15 (ii) the defendant has previously been placed on probation
16 under this section for the commission of a moving violation while the defendant held a
17 provisional license.

18 6-230.

19 (a) (1) Except as provided in subsection (d) of this section, this subsection
20 shall apply in any case where the court agrees that, on successful completion of any
21 treatment ordered as a condition of probation under § 6-219 of this subtitle, the court
22 will enter an order striking the entry of judgment and deferring further proceedings in
23 accordance with § 6-220 of this subtitle.

24 (2) On notification to the court by the Division of Parole and Probation
25 that the defendant has successfully completed the treatment as ordered in a
26 proceeding under paragraph (1) of this subsection, the court shall, except as provided
27 in subsection (d) of this section and notwithstanding any other provision of law or rule
28 to the contrary, enter an order striking entry of judgment and deferring further
29 proceedings in accordance with § 6-220 of this subtitle.

30 (b) (1) Except as provided in subsection (d) of this section, in all other
31 cases, on the successful completion by a defendant of any treatment ordered as a
32 condition of probation imposed under § 6-219 of this subtitle, the Division of Parole
33 and Probation shall notify the court that issued the order and the Office of the State's
34 Attorney in that jurisdiction.

35 (2) Except as provided in subsection (d) of this section,
36 notwithstanding any other provision of law or rule to the contrary, unless the State's
37 Attorney files an objection within 30 days after receipt of the notice, the court may

1 enter an order striking the entry of judgment and deferring further proceedings in
2 accordance with § 6–220 of this subtitle.

3 (3) If the State’s Attorney files a timely objection, the court shall hold
4 a hearing and may, unless good cause is found to the contrary, enter the order.

5 (c) Any probation before judgment entered in accordance with this section
6 shall be supervised by the Division of Parole and Probation for the term and under the
7 conditions that the court considers appropriate.

8 (d) Under this section, a court may not strike the entry of judgment and
9 defer further proceedings in accordance with § 6–220 of this subtitle or stay the
10 entering of a judgment and place a defendant on probation for a violation of § 21–902
11 of the Transportation Article if, within the preceding [5] 10 years, the defendant:

12 (1) has been convicted under § 21–902 of the Transportation Article; or

13 (2) has been placed on probation in accordance with § 6–220 of this
14 subtitle, after being charged with a violation of § 21–902 of the Transportation Article.

15 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
16 October 1, 2009.