

CHAPTER 495

(House Bill 301)

AN ACT concerning

Criminal Procedure – Drunk and Drugged Driving – Probation Before Judgment

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

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

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

Article – Criminal Procedure

6–220.

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

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

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

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

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

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

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

6–230.

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

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

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

(2) Except as provided in subsection (d) of this section, notwithstanding any other provision of law or rule to the contrary, unless the State's Attorney files an objection within 30 days after receipt of the notice, the court may enter an order striking the entry of judgment and deferring further proceedings in accordance with § 6–220 of this subtitle.

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

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

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

(1) has been convicted under § 21–902 of the Transportation Article **OR § 2–503, § 2–504, § 2–505, § 2–506, OR § 3–211 OF THE CRIMINAL LAW ARTICLE**; or

(2) has been placed on probation in accordance with § 6–220 of this subtitle, after being charged with 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**.

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

Approved by the Governor, May 19, 2009.