

HOUSE BILL 1262

E2

0lr2601

By: **Delegates Sophocleus, G. Clagett, and McComas**

Introduced and read first time: February 18, 2010

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – Incompetency and Criminal Responsibility – Dismissal**
3 **of Charges**

4 FOR the purpose of altering the basis for which the State can petition a certain court
5 to extend time for certain charges to remain against a defendant found
6 incompetent to stand trial; repealing the requirement that the court dismiss a
7 charge against a defendant found incompetent to stand trial under certain
8 circumstances; authorizing the court to dismiss a charge against a defendant
9 found incompetent to stand trial under certain circumstances; altering the time
10 periods after which the court is required to dismiss, under certain
11 circumstances, certain charges; and generally relating to incompetency and
12 criminal responsibility and dismissal of charges.

13 BY repealing and reenacting, with amendments,
14 Article – Criminal Procedure
15 Section 3–107
16 Annotated Code of Maryland
17 (2008 Replacement Volume and 2009 Supplement)

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

20 **Article – Criminal Procedure**

21 3–107.

22 (a) Whether or not the defendant is confined and unless the State petitions
23 the court for [extraordinary] **GOOD** cause to extend the time, the court [shall] **MAY**
24 dismiss the charge against a defendant found incompetent to stand trial under this
25 subtitle:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (1) when charged with a capital offense, after the expiration of **[10] 30**
2 years;

3 (2) when charged with a felony or a crime of violence as defined under
4 § 14–101 of the Criminal Law Article **FOR WHICH THE MAXIMUM PENALTY IS**
5 **IMPRISONMENT FOR LIFE WITHOUT THE POSSIBILITY OF PAROLE**, after the
6 [lesser of the] expiration of **[5] 20** years [or the maximum sentence for the most
7 serious offense charged]; [or]

8 (3) **WHEN CHARGED WITH A FELONY OR A CRIME OF VIOLENCE AS**
9 **DEFINED UNDER § 14–101 OF THE CRIMINAL LAW ARTICLE NOT COVERED**
10 **UNDER PARAGRAPH (1) OR (2) OF THIS SUBSECTION, AFTER THE LESSER OF**
11 **THE EXPIRATION OF 15 YEARS OR THE MAXIMUM SENTENCE FOR THE MOST**
12 **SERIOUS OFFENSE CHARGED; OR**

13 (4) when charged with an offense not covered under paragraph (1)
14 [or], (2), **OR (3)** of this subsection, after the lesser of the expiration of **[3] 5** years or
15 the maximum sentence for the most serious offense charged.

16 (b) Whether or not the defendant is confined, if the court considers that
17 resuming the criminal proceeding would be unjust because so much time has passed
18 since the defendant was found incompetent to stand trial, the court shall dismiss the
19 charge without prejudice. However, the court may not dismiss a charge without
20 providing the State’s Attorney and a victim or victim’s representative who has
21 requested notification under § 3–123(c) of this title advance notice and an opportunity
22 to be heard.

23 (c) If charges are dismissed under this section, the court shall notify:

24 (1) the victim of the crime charged or the victim’s representative who
25 has requested notification under § 3–123(c) of this article; and

26 (2) the Criminal Justice Information System Central Repository.

27 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
28 October 1, 2010.