

HOUSE BILL 382

E4

11r1799

By: **Delegates Smigiel, Afzali, Anderson, Bates, Burns, Carter, Cluster, Dwyer, Eckardt, George, Glass, Kach, K. Kelly, Kramer, Krebs, McComas, McDermott, W. Miller, Schuh, Serafini, and Waldstreicher**

Introduced and read first time: February 3, 2011

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Correctional Services – Diminution Credits – Use of a Firearm in Commission**
3 **of a Crime**

4 FOR the purpose of prohibiting the earning of diminution credits to reduce the term of
5 confinement of an inmate committed to the custody of the Commissioner of
6 Correction or sentenced to a term of imprisonment in a local correctional facility
7 who is serving a sentence for a crime committed under circumstances in which
8 the inmate used a firearm in the commission of the crime; creating a certain
9 exception; defining a certain term; providing for the application of this Act; and
10 generally relating to the earning of diminution credits.

11 BY repealing and reenacting, with amendments,
12 Article – Correctional Services
13 Section 3–702 and 11–502
14 Annotated Code of Maryland
15 (2008 Replacement Volume and 2010 Supplement)

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

18 **Article – Correctional Services**

19 3–702.

20 (a) Subject to subsections (b) [and], (c), AND (D) of this section, § 3–711 of
21 this subtitle, and Title 7, Subtitle 5 of this article, an inmate committed to the custody
22 of the Commissioner is entitled to a diminution of the inmate’s term of confinement as
23 provided under this subtitle.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (b) An inmate who is serving a sentence for a violation of § 3-303, § 3-304, §
2 3-305, or § 3-306 of the Criminal Law Article involving a victim who is a child under
3 the age of 16 years is not entitled to a diminution of the inmate's term of confinement
4 as provided under this subtitle.

5 (c) An inmate who is serving a sentence for a violation of § 3-307 of the
6 Criminal Law Article involving a victim who is a child under the age of 16 years is not
7 entitled to a diminution of the inmate's term of confinement as provided under this
8 subtitle, if the inmate was previously convicted of a violation of § 3-307 of the
9 Criminal Law Article involving a victim who is a child under the age of 16 years.

10 **(D) (1) IN THIS SUBSECTION, "FIREARM" HAS THE MEANING STATED**
11 **IN § 5-101 OF THE PUBLIC SAFETY ARTICLE.**

12 **(2) THIS SUBSECTION DOES NOT APPLY TO AN INMATE SERVING A**
13 **SENTENCE BASED SOLELY ON THE UNLAWFUL POSSESSION OF A FIREARM.**

14 **(3) AN INMATE WHO IS SERVING A SENTENCE FOR A CRIME**
15 **COMMITTED UNDER CIRCUMSTANCES IN WHICH THE INMATE USED A FIREARM**
16 **IN THE COMMISSION OF THE CRIME IS NOT ENTITLED TO A DIMINUTION OF THE**
17 **INMATE'S TERM OF CONFINEMENT AS PROVIDED UNDER THIS SUBTITLE.**

18 11-502.

19 (a) Except as provided in subsections (b) and (c) of this section, an inmate
20 who has been sentenced to a term of imprisonment shall be allowed deductions from
21 the inmate's term of confinement as provided under this subtitle for any period of
22 presentence or postsentence confinement in a local correctional facility.

23 (b) (1) An inmate who is serving a sentence for a violation of § 3-303,
24 § 3-304, § 3-305, or § 3-306 of the Criminal Law Article involving a victim who is a
25 child under the age of 16 years may not be allowed deductions from the inmate's term
26 of confinement as provided under this subtitle for any period of presentence or
27 postsentence confinement in a local correctional facility.

28 (2) This subsection may not be construed to require an inmate to serve
29 a longer sentence of confinement than is authorized by the statute under which the
30 inmate was convicted.

31 (c) (1) An inmate who is serving a sentence for a violation of § 3-307 of
32 the Criminal Law Article involving a victim who is a child under the age of 16 years,
33 who has previously been convicted of violating § 3-307 of the Criminal Law Article
34 involving a victim who is a child under the age of 16 years, may not be allowed
35 deductions from the inmate's term of confinement as provided under this subtitle for
36 any period of presentence or postsentence confinement in a local correctional facility.

1 (2) This subsection may not be construed to require an inmate to serve
2 a longer sentence of confinement than is authorized by the statute under which the
3 inmate was convicted.

4 **(D) (1) IN THIS SUBSECTION, "FIREARM" HAS THE MEANING STATED**
5 **IN § 5-101 OF THE PUBLIC SAFETY ARTICLE.**

6 **(2) THIS SUBSECTION DOES NOT APPLY TO AN INMATE SERVING A**
7 **SENTENCE BASED SOLELY ON THE UNLAWFUL POSSESSION OF A FIREARM.**

8 **(3) AN INMATE WHO IS SERVING A SENTENCE FOR A CRIME**
9 **COMMITTED UNDER CIRCUMSTANCES IN WHICH THE INMATE USED A FIREARM**
10 **IN THE COMMISSION OF THE CRIME MAY NOT BE ALLOWED DEDUCTIONS FROM**
11 **THE INMATE'S TERM OF CONFINEMENT AS PROVIDED UNDER THIS SUBTITLE**
12 **FOR ANY PERIOD OF PRESENTENCE OR POSTSENTENCE CONFINEMENT IN A**
13 **LOCAL CORRECTIONAL FACILITY.**

14 **(4) THIS SUBSECTION MAY NOT BE CONSTRUED TO REQUIRE AN**
15 **INMATE TO SERVE A LONGER SENTENCE OF CONFINEMENT THAN IS**
16 **AUTHORIZED BY THE STATUTE UNDER WHICH THE INMATE WAS CONVICTED.**

17 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
18 construed to apply only prospectively and may not be applied or interpreted to have
19 any effect on or application to any inmate who committed an offense before the
20 effective date of this Act.

21 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
22 October 1, 2011.