

HOUSE BILL 311

E2

4lr1154
CF SB 265

By: **Delegate Anderson (By Request – Baltimore City Administration) and
Delegates Clippinger, Glenn, Harper, McHale, McIntosh, Mitchell,
Oaks, B. Robinson, Stukes, and Tarrant**

Introduced and read first time: January 22, 2014

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Gang-Related Crimes – Reporting**

3 FOR the purpose of requiring the court, on request of the State's Attorney, to make a
4 certain finding as to whether a crime for which a defendant is convicted or
5 receives a probation before judgment disposition is a gang-related crime;
6 establishing that the State has the burden of proving by a preponderance of the
7 evidence that a crime is a gang-related crime; requiring a finding by the court
8 that a crime is a gang-related crime to become part of the court record for
9 certain purposes; expanding the list of events that are required to be reported to
10 the Criminal Justice Information System Central Repository to include a
11 finding by a court that a defendant has been convicted of or received a probation
12 before judgment disposition for a gang-related crime; defining a certain term;
13 and generally relating to the reporting of gang-related crimes.

14 BY adding to
15 Article – Criminal Procedure
16 Section 6-234
17 Annotated Code of Maryland
18 (2008 Replacement Volume and 2013 Supplement)

19 BY repealing and reenacting, with amendments,
20 Article – Criminal Procedure
21 Section 10-215
22 Annotated Code of Maryland
23 (2008 Replacement Volume and 2013 Supplement)

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Article – Criminal Procedure

6–234.

(A) IN THIS SECTION, “GANG–RELATED CRIME” MEANS A CRIME COMMITTED BY A DEFENDANT AGAINST A VICTIM IN FURTHERANCE OF GANG–RELATED ACTIVITY.

(B) (1) IF A DEFENDANT IS CONVICTED OF OR RECEIVES A PROBATION BEFORE JUDGMENT DISPOSITION FOR A CRIME, ON REQUEST OF THE STATE’S ATTORNEY, THE COURT SHALL MAKE A FINDING OF FACT, BASED ON EVIDENCE PRODUCED AT TRIAL, AS TO WHETHER THE CRIME IS A GANG–RELATED CRIME.

(2) THE STATE HAS THE BURDEN OF PROVING BY A PREPONDERANCE OF THE EVIDENCE THAT THE CRIME IS A GANG–RELATED CRIME.

(C) IF THE COURT FINDS THAT THE CRIME IS A GANG–RELATED CRIME UNDER SUBSECTION (B) OF THIS SECTION, THE FINDING SHALL BECOME PART OF THE COURT RECORD FOR PURPOSES OF REPORTING TO THE CRIMINAL JUSTICE INFORMATION SYSTEM CENTRAL REPOSITORY UNDER § 10–215 OF THIS ARTICLE.

10–215.

(a) The following events are reportable events under this subtitle that must be reported to the Central Repository in accordance with § 10–214 of this subtitle:

- (1) the issuance or withdrawal of an arrest warrant;
- (2) an arrest;
- (3) the filing of a charging document;
- (4) a release pending trial or an appeal;
- (5) a commitment to an institution of pretrial detention;
- (6) the dismissal of an indictment or criminal information;
- (7) a nolle prosequi;
- (8) the marking of a charge “stet” on the docket;

1 (9) an acquittal, conviction, verdict of not criminally responsible, or
2 any other disposition of a case at or following trial, including a finding of probation
3 before judgment;

4 (10) the imposition of a sentence;

5 (11) a commitment to a State correctional facility or local correctional
6 facility;

7 (12) a commitment to the Department of Health and Mental Hygiene
8 under § 3–105 or § 3–111 of this article as incompetent to stand trial or not criminally
9 responsible;

10 (13) a release from detention or confinement;

11 (14) a conditional release, revocation of conditional release, or discharge
12 of a person committed to the Department of Health and Mental Hygiene under §
13 3–105 or § 3–111 of this article as incompetent to stand trial or not criminally
14 responsible;

15 (15) an escape from confinement or commitment;

16 (16) a pardon, reprieve, commutation of a sentence, or other change in a
17 sentence, including a change in a sentence that a court orders;

18 (17) an entry of an appeal to an appellate court;

19 (18) a judgment of an appellate court;

20 (19) an order of a court in a collateral proceeding that affects a person's
21 conviction, sentence, or confinement;

22 (20) an adjudication of a child as delinquent:

23 (i) if the child is at least 14 years old, for an act described in §
24 3–8A–03(d)(1) of the Courts Article; or

25 (ii) if the child is at least 16 years old, for an act described in §
26 3–8A–03(d)(4) or (5) of the Courts Article;

27 (21) the issuance or withdrawal of a writ of attachment by a juvenile
28 court;

29 (22) the initial registration of a person under Title 11, Subtitle 7 of this
30 article;

1 (23) the imposition of lifetime sexual offender supervision under Title
2 11, Subtitle 7 of this article;

3 (24) a finding that a defendant has been convicted of or received a
4 probation before judgment disposition for a domestically related crime under § 6–233
5 of this article; [and]

6 **(25) A FINDING THAT A DEFENDANT HAS BEEN CONVICTED OF OR**
7 **RECEIVED A PROBATION BEFORE JUDGMENT DISPOSITION FOR A**
8 **GANG-RELATED CRIME UNDER § 6–234 OF THIS ARTICLE; AND**

9 **[(25)] (26)** any other event arising out of or occurring during the course
10 of a criminal proceeding that the Secretary by regulation or the Court of Appeals by
11 rule makes a reportable event.

12 (b) To avoid duplication in the reporting of criminal history record
13 information, the Secretary by regulation and the Court of Appeals by rule may
14 determine those reportable events described under subsection (a) of this section to be
15 reported by each criminal justice unit to the Central Repository.

16 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
17 October 1, 2014.