

SB1005/508476/1

BY: Judicial Proceedings Committee

AMENDMENTS TO SENATE BILL 1005
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 15, after the first “a” insert “certain screening tool and a”; and in line 22, after the first “certain” insert “violations and certain”.

On page 2, strike beginning with “Division” in line 11 down through “Probation” in line 12 and substitute “Department of Public Safety and Correctional Services”; strike beginning with “authorizing” in line 19 down through “sanctions;” in line 21; in line 21, strike “authorizing” and substitute “requiring”; strike beginning with “precludes” in line 25 down through “conviction” in line 27 and substitute “shall be considered by a licensing board when considering the qualifications of an applicant for a professional or occupational licensure or certification”; in line 39, after “victims” insert “and a State’s Attorney”; in the same line, strike “parole” and substitute “release”; in line 40, after “circumstances;” insert “establishing that a victim has certain rights related to administrative parole;”; in line 42, after “parole;” insert “repealing a requirement that a Governor approve medical parole for an individual serving a certain sentence; providing that the Governor may disapprove a medical parole recommendation for a certain individual serving a certain sentence within a certain time;”; and in line 44, after “circumstances;” insert “authorizing the Commissioner to depart from certain periods of incarceration under certain circumstances;”.

On page 3, in line 1, after “facility;” insert “altering the maximum penalty for murder in the second degree; altering the maximum penalty for kidnapping;”; in line 3, strike “requiring” and substitute “authorizing”; strike beginning with “Department” in line 3 down through “Services” in line 4 and substitute “Department of Health and Mental Hygiene”; strike beginning with “Department” in line 6 down through “Services” in line 7 and substitute “Department of Health and Mental Hygiene”; in line 8, strike “incorporate” and substitute “consider”; in line 10, after “manner;” insert “requiring the Division of Correction or a local facility to facilitate certain treatment for a certain”.

(Over)

SB1005/508476/1 Judicial Proceedings Committee
Amendments to SB 1005
Page 2 of 26

person;”; strike beginning with “providing” in line 18 down through “guidelines;” in line 24; in line 26, after “circumstances;” insert “authoring a certain person to file a petition for expungement of certain offenses under certain circumstances; establishing certain procedures for a certain expungement under certain circumstances; authorizing the court to depart from certain periods of imprisonment under certain circumstances; requiring the Department of Health and Mental Hygiene to immediately provide certain services;”; in line 27, strike “without unnecessary delay and in no event” and substitute “no”; in line 28, after “order;” insert “repealing certain limitations on certain duties of the Department of Health and Mental Hygiene relating to funding;”; in line 30, strike “lack of placement” and substitute “delay”; and strike beginning with “altering” in line 41 down through “license;” in line 42.

On page 4, in line 6, after “circumstances;” insert “requiring local correction authorities in consultation with certain departments to conduct a certain budget analysis and submit a report on or before a certain date; stating the intent of the General Assembly; providing for the application of certain provisions of this Act; providing for a delayed effective date for certain provisions of this Act;”; in line 32, after “Section” insert “2-204, 3-502, and”; in line 39, after “8-611,” insert “and”; and in the same line, strike “, and 14-101”.

On page 5, strike in their entirety lines 7 through 11, inclusive; strike in their entirety lines 12 through 16, inclusive; in line 19, strike “6-209” and substitute “1-101”; after line 21, insert:

“BY adding to

Article – Criminal Procedure

Section 10-110

Annotated Code of Maryland

(2008 Replacement Volume and 2015 Supplement)”;

and in line 24, after “Section” insert “8-505 and”.

**SB1005/508476/1 Judicial Proceedings Committee
Amendments to SB 1005
Page 3 of 26**

On page 6, strike in their entirety lines 9 through 23, inclusive.

AMENDMENT NO. 2

On page 7, in line 20, strike “AND”; and in line 22, after “DIVISION” insert “;AND”

(III) A PLAN FOR THE PAYMENT OF RESTITUTION, IF RESTITUTION HAS BEEN ORDERED”.

On page 8, in line 11, strike the brackets; and strike beginning with the comma in line 11 down through “OR” in line 13.

On page 9, in line 26, strike “LAW” and substitute “PROCEDURE”.

On page 10, in line 11, after “(b)” insert “(1) “ABSCONDING” MEANS DISPLAYING AFFIRMATIVE BEHAVIOR WITH THE INTENT TO EVADE SUPERVISION.”

(2) “ABSCONDING” DOES NOT INCLUDE MISSING A SINGLE APPOINTMENT WITH A SUPERVISING AUTHORITY.

(C)”;

and in lines 12, 14, 21, 22, 23, 25, and 27, strike “(c)”, “(D)”, “(E)”, “(F)”, “(G)”, “(H)”, and “(I)”, respectively, and substitute “(D)”, “(E)”, “(F)”, “(G)”, “(H)”, “(I)”, and “(J)”, respectively.

On page 11, in lines 1, 3, and 8, strike “(J)”, “(K)”, and “(L)”, respectively, and substitute “(K)”, “(L)”, and “(M)”, respectively; in line 10, after “ARREST” insert “OR A SUMMONS ISSUED BY A COMMISSIONER ON A STATEMENT OF CHARGES FILED BY A LAW ENFORCEMENT OFFICER”; in line 11, strike “OR”; in line 12, after “NO-CONTACT” insert “OR STAY-AWAY”; in the same line, after “ORDER” insert “; OR

(Over)

**SB1005/508476/1 Judicial Proceedings Committee
Amendments to SB 1005
Page 4 of 26**

(4) ABSCONDING;

in line 17, strike “RISK AND NEEDS ASSESSMENT” and substitute “VALIDATED SCREENING TOOL”; in line 20, after “(II)” insert “ADMINISTER A RISK AND NEEDS ASSESSMENT AND”; in line 21, strike “ASSESSED” and substitute “SCREENED”; in line 24, after “A” insert “VALIDATED SCREENING TOOL OR”; in line 25, strike the first “ITEM” and substitute “ITEMS”; and in the same line, after “(I)” insert “OR (II)”.

On page 13, strike beginning with “MODIFY” in line 1 down through “IMPOSING” in line 2 and substitute “IMPOSE”; in line 5, strike “AND”; in line 6, after “(5)” insert “PROVIDE PROMPT NOTICE TO THE COURT OF ANY TECHNICAL VIOLATIONS COMMITTED AND GRADUATED SANCTIONS IMPOSED UNDER § 6-121 OF THIS SUBTITLE; AND

(6);

strike beginning with “AND” in line 6 down through “SUBTITLE” in line 8; and in line 21, strike “PROGRESS” and substitute “COMPLIANCE”.

On page 14, in line 10, strike “5-602 through 5-606, OR § 5-617” and substitute “5-612 THROUGH 5-614”; in the same line, strike the third bracket; in line 11, strike the bracket; strike beginning with “TIME” in line 25 down through “APPLICABLE,” in line 26; and strike beginning with “TRANSFER” in line 28 down through “TO” in line 29 and substitute “PLACE THE INDIVIDUAL ON”.

On page 16, in line 17, strike “DIVISION” and substitute “DEPARTMENT”; in line 28, after “(B)” insert “(1)”; and after line 29, insert:

“(2) THE DIVISION SHALL PROVIDE NOTICE TO THE COURT OF A TECHNICAL VIOLATION COMMITTED AND A GRADUATED SANCTION IMPOSED AS A RESULT OF THE VIOLATION.”

On page 17, in line 5, after “PROGRAM” insert “AND TO ENSURE THAT DUE PROCESS PROTECTIONS ARE IN PLACE FOR AN INDIVIDUAL UNDER THE SUPERVISION OF THE DIVISION TO CHALLENGE GRADUATED SANCTIONS IMPOSED UNDER THE PROGRAM”; in line 8, after “POSSIBLE” insert “NONCUSTODIAL”; strike in their entirety lines 10 through 12, inclusive; in line 13, strike “(E)” and substitute “(D)”; and in line 14, strike “MAY” and substitute “SHALL”.

On page 18, strike beginning with “A” in line 23 down through “CONVICTION” in line 26 and substitute “A LICENSING BOARD SHALL CONSIDER A CERTIFICATE OF REHABILITATION WHEN DETERMINING THE QUALIFICATION OF AN APPLICANT FOR A PROFESSIONAL OR OCCUPATIONAL LICENSURE OR CERTIFICATION”.

On page 19, in line 3, strike the second comma; in the same line, strike “THE SENTENCING JUDGE,”; in line 11, after “parole” insert “OR ADMINISTRATIVE RELEASE”; in line 18, strike “PAROLE” and substitute “RELEASE”; and in line 20, after “VICTIM” insert “OR A STATE’S ATTORNEY”.

On page 20, in lines 3 and 14, in each instance, strike “PAROLE” and substitute “RELEASE”.

On page 21, in line 11, strike the first “PAROLE” and substitute “RELEASE”; in the same line, strike “TO PAROLE”; in line 17, after “(II)” insert “HAS BEEN SCREENED AS LOW RISK TO REOFFEND UNDER § 6-104 OF THIS ARTICLE”;

(III)”;

(Over)

**SB1005/508476/1 Judicial Proceedings Committee
Amendments to SB 1005
Page 6 of 26**

in line 22, strike “(III)” and substitute “(IV)”; in line 26, after “SHALL” insert “:

(I)”;

in line 27, strike the colon; in line 28, strike “(I)”; and in line 29, strike “PAROLE” and substitute “RELEASE”.

On page 22, in lines 2 and 12, in each instance, strike “TO PAROLE”; in lines 4, 10, 14, 24, 28, and 30, in each instance, strike “PAROLE” and substitute “RELEASE”; in line 6, after “SHALL” insert “:

(I)”;

in line 8, strike the colon; in line 9, strike “(I)”; and in line 31, after “(E)” insert “**(1) A VICTIM HAS ALL THE RIGHTS UNDER THIS SECTION THAT ARE GRANTED TO A VICTIM UNDER THIS TITLE FOR A PAROLE HEARING.**”.

(2)”.

On page 23, in lines 1, 3, and 5, strike “(1)”, “(2)” and “(3)”, respectively, and substitute “(I)”, “(II)”, and “(III)”, respectively; in lines 1, 8, and 21, in each instance, strike “PAROLE” and substitute “RELEASE”; in line 3, strike “PAROLE”; in line 7, after “(F)” insert “**(1) THE COMMISSION SHALL NOTIFY THE STATE’S ATTORNEY OF THE ELIGIBLE INMATE’S ADMINISTRATIVE RELEASE ELIGIBILITY DATE.**”.

(2) THE STATE’S ATTORNEY MAY SUBMIT A WRITTEN OBJECTION TO AN INMATE’S RELEASE ON ADMINISTRATIVE RELEASE AND REQUEST AN OPEN HEARING.

(G)”;

**SB1005/508476/1 Judicial Proceedings Committee
Amendments to SB 1005
Page 7 of 26**

in line 13, strike “**30**” and substitute “**120**”; in lines 13 and 19, in each instance, strike “**PAROLE**” and substitute “**ADMINISTRATIVE RELEASE**”; in line 14, after “**VICTIM**” insert “**OR THE STATE’S ATTORNEY**”; in line 15, after “**(E)**” insert “**OR (F)**”; and in lines 16 and 20, strike “**(G)**” and “**(H)**”, respectively, and substitute “**(H)**” and “**(I)**”, respectively.

On page 26, strike beginning with “Consistent” in line 30 down through “Governor” in line 31 and substitute “**(1) IF THE COMMISSION DECIDES TO GRANT MEDICAL PAROLE TO AN INMATE SENTENCED TO LIFE IMPRISONMENT, THE DECISION SHALL BE TRANSMITTED TO THE GOVERNOR.**”

(2) THE GOVERNOR MAY DISAPPROVE THE DECISION BY WRITTEN TRANSMITTAL TO THE COMMISSION.

(3) IF THE GOVERNOR DOES NOT DISAPPROVE THE DECISION WITHIN 180 DAYS AFTER RECEIPT, THE DECISION BECOMES EFFECTIVE”.

On page 27, in line 23, strike “**IF**” and substitute “**SUBJECT TO PARAGRAPH (4) OF THIS SUBSECTION, IF**”.

On page 28, after line 11, insert:

(4) THE COMMISSIONER MAY DEPART FROM THE LIMITS PROVIDED UNDER THIS SUBSECTION IF THE COMMISSIONER MAKES AN AFFIRMATIVE FINDING THAT ADHERING TO THE LIMITS WOULD CREATE A RISK TO PUBLIC SAFETY OR TO A VICTIM OR WITNESS OR FOR OTHER GOOD CAUSE.”;

and in line 27, strike “The” and substitute “**SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, THE**”.

(Over)

**SB1005/508476/1 Judicial Proceedings Committee
Amendments to SB 1005
Page 8 of 26**

On page 29, after line 11, insert:

“(3) THE COMMISSIONER MAY DEPART FROM THE LIMITS PROVIDED UNDER THIS SUBSECTION IF THE COMMISSIONER MAKES AN AFFIRMATIVE FINDING THAT ADHERING TO THE LIMITS WOULD CREATE A RISK TO PUBLIC SAFETY OR TO A VICTIM OR WITNESS OR FOR OTHER GOOD CAUSE.”.

On page 30, in line 1, strike “(I)”; and strike in their entirety lines 4 through 6, inclusive.

AMENDMENT NO. 3

On page 32, after line 13, insert:

“2-204.

(a) A murder that is not in the first degree under § 2-201 of this subtitle is in the second degree.

(b) A person who commits a murder in the second degree is guilty of a felony and on conviction is subject to imprisonment not exceeding [30] 40 years.

3-502.

(a) A person may not, by force or fraud, carry or cause a person to be carried in or outside the State with the intent to have the person carried or concealed in or outside the State.

(b) A person who violates this section is guilty of the felony of kidnapping and on conviction is subject to imprisonment not exceeding [30] 40 years.

SB1005/508476/1 Judicial Proceedings Committee
Amendments to SB 1005
Page 9 of 26

(c) Kidnapping does not include the act of a parent in carrying a minor child of that parent in or outside the State.

On page 33, in lines 9, 11, and 13, in each instance, strike “\$25,000” and substitute “\$5,000”; in line 17, strike the brackets; in the same line, strike “1 year” and substitute “6 MONTHS”; in the same line, strike the colon; and strike beginning with “(1)” in line 18 down through “BOTH” in line 21.

On page 36, in line 17, strike “SHALL” and substitute “MAY”; strike beginning with “PUBLIC” in line 17 down through “TREATMENT” in line 20 and substitute “HEALTH AND MENTAL HYGIENE OR A CERTIFIED AND LICENSED DESIGNEE TO CONDUCT AN ASSESSMENT OF THE DEFENDANT FOR SUBSTANCE USE DISORDER AND DETERMINE WHETHER THE DEFENDANT IS IN NEED OF AND MAY BENEFIT FROM DRUG TREATMENT”; strike beginning with “THE” in line 21 down through “ASSESSMENT” in line 23 and substitute “ON RECEIVING AN ORDER UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE, OR THE DESIGNEE, SHALL CONDUCT AN ASSESSMENT OF THE DEFENDANT FOR SUBSTANCE USE DISORDER AND PROVIDE THE RESULTS”; in line 25, strike “AND INCORPORATE”; in line 26, strike “THE” and substitute “AN”; in the same line, strike “INTO” and substitute “WHEN IMPOSING”; in line 28, after “(I)” insert “EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH”; in the same line, strike “AN” and substitute “A”; in line 29, strike “IMMINENT”; in the same line, after the second “THE” insert “EXECUTION OF THE”; and strike beginning with “DIVISION” in line 31 down through “COMMUNITY” in line 32 and substitute “DEPARTMENT OF HEALTH AND MENTAL HYGIENE TO PROVIDE THE MEDICALLY APPROPRIATE LEVEL OF TREATMENT”.

On page 37, in line 1, strike “AN” and substitute “A”; in line 2, strike “IMMINENT”; in the same line, after “SAFETY” insert “OR OTHERWISE FOR GOOD CAUSE”; in line 4, strike “PROVIDE” and substitute “FACILITATE THE MEDICALLY APPROPRIATE”.

(Over)

**SB1005/508476/1 Judicial Proceedings Committee
Amendments to SB 1005
Page 10 of 26**

LEVEL OF"; in line 5, after "TREATMENT" insert "FOR THE DEFENDANT"; and after line 5, insert:

"(4) THE COURT MAY NOT FIND GOOD CAUSE UNDER PARAGRAPH (3)(II) OF THIS SUBSECTION SOLELY BECAUSE THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE LACKS SUFFICIENT RESOURCES TO COMPLY WITH AN ORDER TO PROVIDE TREATMENT."

On page 49, strike beginning with "AT" in line 4 down through "BUT" in line 5; in lines 16 and 30, in each instance, strike the bracket; in line 16, strike "two" and substitute "FOUR"; and in line 18, strike "\$1,000" and substitute "\$2,000".

On pages 61 through 64, strike in their entirety the lines beginning with line 13 on page 61 through line 7 on page 64, inclusive.

On page 64, after line 10, insert:

"(b) "ABSCONDING" HAS THE MEANING STATED IN § 6-101 OF THE CORRECTIONAL SERVICES ARTICLE.

(c) (1) "Charging document" means a written accusation alleging that a defendant has committed a crime.

(2) "Charging document" includes a citation, an indictment, an information, a statement of charges, and a warrant.

[(c)] (D) "Correctional facility" has the meaning stated in § 1-101 of the Correctional Services Article.

[(d)] (E) "County" means a county of the State or Baltimore City.

SB1005/508476/1 Judicial Proceedings Committee
Amendments to SB 1005
Page 11 of 26

[(e)] (F) “Crime of violence” has the meaning stated in § 14–101 of the Criminal Law Article.

[(f)] (G) “Department” means the Department of Public Safety and Correctional Services.

[(g)] (H) “Inmate” has the meaning stated in § 1–101 of the Correctional Services Article.

[(h)] (I) “Local correctional facility” has the meaning stated in § 1–101 of the Correctional Services Article.

[(i)] (J) “Managing official” has the meaning stated in § 1–101 of the Correctional Services Article.

[(i)] (K) “Nolle prosequi” means a formal entry on the record by the State that declares the State’s intention not to prosecute a charge.

[(k)] (L) “Nolo contendere” means a plea stating that the defendant will not contest the charge but does not admit guilt or claim innocence.

[(l)] (M) “Person” means an individual, receiver, trustee, guardian, personal representative, fiduciary, representative of any kind, partnership, firm, association, corporation, or other entity.

[(m)] (N) “Secretary” means the Secretary of the Department of Public Safety and Correctional Services.

[(n)] (O) “State” means:

(Over)

**SB1005/508476/1 Judicial Proceedings Committee
Amendments to SB 1005
Page 12 of 26**

- (1) a state, possession, territory, or commonwealth of the United States;
or
- (2) the District of Columbia.

[(o)] (P) “State correctional facility” has the meaning stated in § 1–101 of the Correctional Services Article.”;

in line 11, strike “(P)” and substitute “(Q)”; in line 13, after “ARREST” insert “OR A SUMMONS ISSUED BY A COMMISSIONER ON A STATEMENT OF CHARGES FILED BY A LAW ENFORCEMENT OFFICER”; in line 14, strike “OR”; in line 15, after “NO CONTACT” insert “OR STAY-AWAY”; and in the same line, after “ORDER” insert “; OR

(4) ABSCONDING”.

On pages 64 and 65, strike in their entirety the lines beginning with line 16 on page 64 through line 12 on page 65, inclusive.

On page 65, in line 30, after “(I)” insert “SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION,”.

On page 66, after line 8, insert:

“(3) THE COURT MAY DEPART FROM THE LIMITS PROVIDED UNDER THIS SUBSECTION IF:

(I) THE COURT FINDS AND STATES ON THE RECORD:

1. THAT ADHERING TO THE LIMITS WOULD CREATE A RISK TO PUBLIC SAFETY OR TO A VICTIM OR WITNESS; OR

2. OTHER GOOD CAUSE; OR

(II) THE COURT COMMITS THE PROBATIONER OR DEFENDANT TO THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE FOR TREATMENT UNDER § 8-507 OF THE HEALTH – GENERAL ARTICLE.”;

and in line 28, strike “IF” and substitute “**(1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, IF**”.

On page 67, in lines 1, 2, 3, and 5, strike “(1)”, “(2)”, “(3)”, and “(4)”, respectively, and substitute “**(I)**”, “**(II)**”, “**(III)**”, and “**(IV)**”, respectively; and after line 6, insert:

“(2) THE COURT MAY DEPART FROM THE LIMITS PROVIDED UNDER THIS SUBSECTION IF:

(I) THE COURT FINDS AND STATES ON THE RECORD:

1. THAT ADHERING TO THE LIMITS WOULD CREATE A RISK TO PUBLIC SAFETY OR TO A VICTIM OR WITNESS; OR

2. OTHER GOOD CAUSE; OR

(II) THE COURT COMMITS THE PROBATIONER OR DEFENDANT TO THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE FOR TREATMENT UNDER § 8-507 OF THE HEALTH – GENERAL ARTICLE.”.

AMENDMENT NO. 4

On page 67, after line 13, insert:

“10-110.

(Over)

(A) A PERSON MAY FILE A PETITION LISTING RELEVANT FACTS FOR EXPUNGEMENT OF A POLICE RECORD, COURT RECORD, OR OTHER RECORD MAINTAINED BY THE STATE OR A POLITICAL SUBDIVISION OF THE STATE IF THE PERSON IS CONVICTED OF A MISDEMEANOR THAT IS A VIOLATION OF:

(1) § 6-320 OF THE ALCOHOLIC BEVERAGES ARTICLE;

(2) AN OFFENSE LISTED IN § 17-613(A) OF THE BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE;

(3) § 5-712, § 19-304, § 19-308, OR TITLE 5, SUBTITLE 6 OR SUBTITLE 9 OF THE BUSINESS REGULATION ARTICLE;

(4) § 3-1508 OR § 10-402 OF THE COURTS ARTICLE;

(5) § 14-1915, § 14-2902, OR § 14-2903 OF THE COMMERCIAL LAW ARTICLE;

(6) § 5-211 OF THE CRIMINAL PROCEDURE ARTICLE;

(7) § 3-203 OR § 3-808 OF THE CRIMINAL LAW ARTICLE;

(8) § 5-601, § 5-618, § 5-619, § 5-620, § 5-703, § 5-708, OR § 5-902 OF THE CRIMINAL LAW ARTICLE;

(9) § 6-105, § 6-108, § 6-206, § 6-303, § 6-306, § 6-307, § 6-402, OR § 6-503 OF THE CRIMINAL LAW ARTICLE;

(10) § 7-104, § 7-203, § 7-205, § 7-304, § 7-308, OR § 7-309 OF THE CRIMINAL LAW ARTICLE;

(11) § 8-103, § 8-206, § 8-401, § 8-402, § 8-404, § 8-406, § 8-408, § 8-503, § 8-521, § 8-523, OR § 8-904 OF THE CRIMINAL LAW ARTICLE;

(12) § 9-204, § 9-205, § 9-503, OR § 9-506 OF THE CRIMINAL LAW ARTICLE;

(13) § 10-110, § 10-201, § 10-402, § 10-404, OR § 10-502 OF THE CRIMINAL LAW ARTICLE;

(14) § 11-306(A) OF THE CRIMINAL LAW ARTICLE;

(15) § 12-102, § 12-103, § 12-104, § 12-105, § 12-109, § 12-203, § 12-204, § 12-205, OR § 12-302 OF THE CRIMINAL LAW ARTICLE;

(16) § 13-401, § 13-602, OR § 16-201 OF THE ELECTION LAW ARTICLE;

(17) § 4-509 OF THE FAMILY LAW ARTICLE;

(18) § 18-215 OF THE HEALTH – GENERAL ARTICLE;

(19) § 4-411 OR § 4-2005 OF THE HUMAN SERVICES ARTICLE;

(20) § 27-403, § 27-404, § 27-405, § 27-406, § 27-406.1, § 27-407, § 27-407.1, OR § 27-407.2 OF THE INSURANCE ARTICLE;

(21) § 5-307, § 5-308, § 6-602, § 7-402, OR § 14-114 OF THE PUBLIC SAFETY ARTICLE;

(22) § 7-318.1, § 7-509, OR § 10-507 OF THE REAL PROPERTY ARTICLE;

(23) § 9-124 OF THE STATE GOVERNMENT ARTICLE;

(24) § 13-1001, § 13-1004, § 13-1007, OR § 13-1024 OF THE TAX – GENERAL ARTICLE;

(25) THE COMMON LAW OFFENSES OF AFFRAY, RIOTING, CRIMINAL CONTEMPT, OR HINDERING; OR

(26) AN ATTEMPT, CONSPIRACY, OR SOLICITATION OF ANY OFFENSE LISTED IN ITEMS (1) THROUGH (25) OF THIS SUBSECTION.

(B) (1) EXCEPT AS PROVIDED IN PARAGRAPHS (2) AND (3) OF THIS SUBSECTION, A PERSON SHALL FILE A PETITION FOR EXPUNGEMENT IN THE COURT IN WHICH THE PROCEEDING BEGAN.

(2) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, IF THE PROCEEDING BEGAN IN ONE COURT AND WAS TRANSFERRED TO ANOTHER COURT, THE PERSON SHALL FILE THE PETITION IN THE COURT TO WHICH THE PROCEEDING WAS TRANSFERRED.

(II) IF THE PROCEEDING BEGAN IN ONE COURT AND WAS TRANSFERRED TO THE JUVENILE COURT UNDER § 4-202 OR § 4-202.2 OF THIS ARTICLE, THE PERSON SHALL FILE THE PETITION IN THE COURT OF ORIGINAL JURISDICTION FROM WHICH THE ORDER OF TRANSFER WAS ENTERED.

(3) (I) IF THE PROCEEDING IN A COURT OF ORIGINAL JURISDICTION WAS APPEALED TO A COURT EXERCISING APPELLATE JURISDICTION, THE PERSON SHALL FILE THE PETITION IN THE APPELLATE COURT.

(II) THE APPELLATE COURT MAY REMAND THE MATTER TO THE COURT OF ORIGINAL JURISDICTION.

(C) A PETITION FOR EXPUNGEMENT UNDER THIS SECTION MAY NOT BE FILED EARLIER THAN 10 YEARS AFTER THE PERSON SATISFIES THE SENTENCE OR SENTENCES IMPOSED FOR ALL CONVICTIONS FOR WHICH EXPUNGEMENT IS REQUESTED, INCLUDING PAROLE, PROBATION, OR MANDATORY SUPERVISION.

(D) (1) IF THE PERSON IS CONVICTED OF A NEW CRIME DURING THE APPLICABLE TIME PERIOD SET FORTH IN SUBSECTION (C) OF THIS SECTION, THE ORIGINAL CONVICTION OR CONVICTIONS ARE NOT ELIGIBLE FOR EXPUNGEMENT UNLESS THE NEW CONVICTION BECOMES ELIGIBLE FOR EXPUNGEMENT.

(2) A PERSON IS NOT ELIGIBLE FOR EXPUNGEMENT IF THE PERSON IS A DEFENDANT IN A PENDING CRIMINAL PROCEEDING.

(3) IF A PERSON IS NOT ELIGIBLE FOR EXPUNGEMENT OF ONE CONVICTION IN A UNIT, THE PERSON IS NOT ELIGIBLE FOR EXPUNGEMENT OF ANY OTHER CONVICTION IN THE UNIT.

(E) (1) THE COURT SHALL HAVE A COPY OF A PETITION FOR EXPUNGEMENT SERVED ON THE STATE'S ATTORNEY.

(2) THE COURT SHALL SEND WRITTEN NOTICE OF THE EXPUNGEMENT REQUEST TO ALL LISTED VICTIMS IN THE CASE IN WHICH THE PETITIONER IS SEEKING EXPUNGEMENT AT THE ADDRESS LISTED IN THE COURT FILE, ADVISING THE VICTIM OR VICTIMS OF THE RIGHT TO OFFER ADDITIONAL INFORMATION RELEVANT TO THE EXPUNGEMENT PETITION TO THE COURT.

(3) UNLESS THE STATE'S ATTORNEY OR A VICTIM FILES AN OBJECTION TO THE PETITION FOR EXPUNGEMENT WITHIN 30 DAYS AFTER THE PETITION IS SERVED, THE COURT SHALL PASS AN ORDER REQUIRING THE EXPUNGEMENT OF ALL POLICE RECORDS AND COURT RECORDS ABOUT THE CHARGE.

(F) (1) IF THE STATE'S ATTORNEY OR A VICTIM FILES A TIMELY OBJECTION TO THE PETITION, THE COURT SHALL HOLD A HEARING.

(2) THE COURT SHALL ORDER THE EXPUNGEMENT OF ALL POLICE RECORDS AND COURT RECORDS ABOUT THE CHARGE AFTER A HEARING, IF THE COURT FINDS AND STATES ON THE RECORD:

(I) THAT THE CONVICTION IS ELIGIBLE FOR EXPUNGEMENT UNDER SUBSECTION (A) OF THIS SECTION;

(II) THAT THE PERSON IS ELIGIBLE FOR EXPUNGEMENT UNDER SUBSECTION (D) OF THIS SECTION;

(III) THAT GIVING DUE REGARD TO THE NATURE OF THE CRIME, THE HISTORY AND CHARACTER OF THE PERSON, AND THE PERSON'S SUCCESS AT REHABILITATION, THE PERSON IS NOT A RISK TO PUBLIC SAFETY;
AND

(IV) THAT AN EXPUNGEMENT WOULD BE IN THE INTEREST OF JUSTICE.

(G) IF AT A HEARING THE COURT FINDS THAT A PERSON IS NOT ENTITLED TO EXPUNGEMENT, THE COURT SHALL DENY THE PETITION.

(H) UNLESS AN ORDER IS STAYED PENDING APPEAL, WITHIN 60 DAYS AFTER ENTRY OF ORDER, EVERY CUSTODIAN OF THE POLICE RECORDS AND COURT RECORDS THAT ARE SUBJECT TO THE ORDER OF EXPUNGEMENT SHALL ADVISE IN WRITING THE COURT AND THE PERSON WHO IS SEEKING EXPUNGEMENT OF COMPLIANCE WITH THE ORDER.

(I) (1) THE STATE’S ATTORNEY IS A PARTY TO THE PROCEEDING.

(2) A PARTY AGGRIEVED BY THE DECISION OF THE COURT IS ENTITLED TO THE APPELLATE REVIEW AS PROVIDED IN THE COURTS ARTICLE.”.

AMENDMENT NO. 5

On page 67, after line 23, insert:

“8-505.

(a) (1) Before or during a criminal trial, before or after sentencing, or before or during a term of probation, the court may order the Department to evaluate a defendant to determine whether, by reason of drug or alcohol abuse, the defendant is in need of and may benefit from treatment if:

(i) It appears to the court that the defendant has an alcohol or drug abuse problem; or

(Over)

SB1005/508476/1 Judicial Proceedings Committee
Amendments to SB 1005
Page 20 of 26

(ii) The defendant alleges an alcohol or drug dependency.

(2) A court shall set and may change the conditions under which an examination is to be conducted under this section.

(3) The Department shall ensure that each evaluation under this section is conducted in accordance with regulations adopted by the Department.

(b) On consideration of the nature of the charge, the court:

(1) May require or permit an examination to be conducted on an outpatient basis; and

(2) If an outpatient examination is authorized, shall set bail for the defendant or authorize the release of the defendant on personal recognizance.

(c) (1) If a defendant is to be held in custody for examination under this section:

(i) The defendant may be confined in a detention facility until the Department is able to conduct the examination; or

(ii) The court may order confinement of the defendant in a medical wing or other isolated and secure unit of a detention facility, if the court finds it appropriate for the health or safety of the defendant.

(2) (i) If the court finds that, because of the apparent severity of the alcohol or drug dependency or other medical or psychiatric complications, a defendant in custody would be endangered by confinement in a jail, the court may order the Department to either:

SB1005/508476/1 Judicial Proceedings Committee
Amendments to SB 1005
Page 21 of 26

1. Place the defendant, pending examination, in an appropriate health care facility; or

2. Immediately conduct an evaluation of the defendant.

(ii) Unless the Department retains a defendant, the defendant shall be promptly returned to the court after an examination.

(iii) A defendant who is detained for an examination under this section may question at any time the legality of the detention by a petition for a writ of habeas corpus.

(d) (1) If a court orders an evaluation under this section, the evaluator shall:

(i) Conduct an evaluation of the defendant; and

(ii) Submit a complete report of the evaluation within 7 days to the:

1. Court;

2. Department; and

3. Defendant or the defendant's attorney.

(2) On good cause shown, a court may extend the time for an evaluation under this section.

(3) Whenever an evaluator recommends treatment, the evaluator's report shall:

(Over)

SB1005/508476/1 Judicial Proceedings Committee
Amendments to SB 1005
Page 22 of 26

(i) Name a specific program able to IMMEDIATELY provide the recommended treatment; and

(ii) Give an actual or estimated date when the program can begin treatment of the defendant.

(e) (1) The Department shall IMMEDIATELY provide the services required by this section.

(2) A designee of the Department may carry out any of its duties under this section [if appropriate funding is provided].

(f) Evaluations performed in facilities operated by the Department of Public Safety and Correctional Services shall be conducted by the Administration.”.

On page 68, in line 22, strike “if appropriate funding is provided”; strike beginning with “The” in line 25 down through “(ii)” in line 27; and in line 29, strike “(iii)” and substitute “**(II)**”.

On page 69, in line 1, after the closing bracket insert “**THE IMMEDIATE**”; strike beginning with “**WITHOUT**” in line 2 down through “**ORDER**” in line 3 and substitute “**UNLESS THE COURT FINDS EXIGENT CIRCUMSTANCES TO DELAY COMMITMENT FOR TREATMENT FOR NO LONGER THAN 30 DAYS**”; in line 5, strike “**30**” and substitute “**7**”; and strike beginning with “**MAY**” in line 6 down through “**PLACEMENT**” in line 7 and substitute “**MAY ISSUE A SHOW CAUSE ORDER FOR THE DEPARTMENT TO APPEAR AND EXPLAIN WHY THE DEPARTMENT SHOULD NOT BE HELD IN CONTEMPT UNDER TITLE 15 OF THE MARYLAND RULES**”.

AMENDMENT NO. 6

On page 72, in line 15, strike “**ONE MEMBER**” and substitute “**TWO MEMBERS**”; strike beginning with “**ONE**” in line 17 down through “**MARYLAND**” in line 18 and

**SB1005/508476/1 Judicial Proceedings Committee
Amendments to SB 1005
Page 23 of 26**

substitute “ONE MEMBER APPOINTED BY THE MARYLAND SHERIFFS ASSOCIATION”; in line 25, strike “ONE MEMBER” and substitute “TWO MEMBERS”; and in line 26, after “ASSOCIATION” insert “THAT INCLUDES ONE REPRESENTATIVE FROM A LARGE CORRECTIONAL FACILITY AND ONE REPRESENTATIVE FROM A SMALL CORRECTIONAL FACILITY”.

On page 73, in line 13, strike “EXECUTIVE DIRECTOR IS” and substitute “GOVERNOR SHALL APPOINT”.

On page 74, in line 9, after “GOVERNMENT” insert “JUSTICE”; and strike in their entirety lines 18 through 31, inclusive, and substitute:

“(5) CREATE PERFORMANCE MEASURES TO ASSESS THE EFFECTIVENESS OF THE GRANTS;

“(6) IN COLLABORATION WITH THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES, THE MARYLAND PAROLE COMMISSION, THE ADMINISTRATIVE OFFICE OF THE COURTS, AND THE MARYLAND STATE COMMISSION ON CRIMINAL SENTENCING POLICY, CREATE PERFORMANCE MEASURES TO TRACK AND ASSESS THE OUTCOMES OF THE IMPLEMENTATION OF THE RECOMMENDATIONS OF THE JUSTICE REINVESTMENT COORDINATING COUNCIL;

“(7) CREATE PERFORMANCE MEASURES TO ASSESS THE EFFECTIVENESS OF THE GRANTS ADMINISTERED UNDER § 9-3209 OF THIS SUBTITLE; AND

“(8) CONSULT AND COORDINATE WITH:

(Over)

(I) THE LOCAL GOVERNMENT JUSTICE REINVESTMENT COMMISSION; AND

(II) OTHER UNITS OF THE STATE AND LOCAL JURISDICTIONS CONCERNING JUSTICE REINVESTMENT ISSUES.

(B) (1) IN COLLABORATION WITH THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES, THE BOARD SHALL DETERMINE THE ANNUAL SAVINGS FROM THE IMPLEMENTATION OF THE RECOMMENDATIONS OF THE JUSTICE REINVESTMENT COORDINATING COUNCIL BASED ON THE DIFFERENCE BETWEEN THE PRISON POPULATION AS MEASURED ON OCTOBER 1, 2017, THE BASELINE DAY, AND THE PRISON POPULATION AS MEASURED ON OCTOBER 1, 2018, THE COMPARISON DAY, AND THE VARIABLE COST OF INCARCERATION.

(2) IF THE PRISON POPULATION ON THE COMPARISON DAY IS LESS THAN THE PRISON POPULATION ON THE BASELINE DAY, THE BOARD SHALL DETERMINE A SAVINGS BASED ON THE DIFFERENCE IN THE PRISON POPULATION MULTIPLIED BY THE VARIABLE COST.

(3) THE BOARD SHALL ANNUALLY DETERMINE THE DIFFERENCE BETWEEN THE PRISON POPULATION ON OCTOBER 1, 2017, AND THE PRISON POPULATION ON OCTOBER 1 OF THE CURRENT YEAR AND CALCULATE ANY SAVINGS IN ACCORDANCE WITH PARAGRAPH (2) OF THIS SUBSECTION.

(4) IF A PRISON POPULATION DECLINE CAUSES A CORRECTIONAL UNIT, WING, OR FACILITY TO CLOSE, THE BOARD SHALL CONDUCT AN ASSESSMENT TO DETERMINE THE SAVINGS FROM THE CLOSURE AND DISTRIBUTE

THE SAVINGS, REALIZED ANNUALLY, ACCORDING TO THE SCHEDULE IN PARAGRAPH (5) OF THIS SUBSECTION.

(5) THE BOARD SHALL ANNUALLY RECOMMEND THAT THE SAVINGS IDENTIFIED IN PARAGRAPHS (2) THROUGH (4) OF THIS SUBSECTION BE DISTRIBUTED AS FOLLOWS:

(I) UP TO 50% OF THE SAVINGS SHALL BE PLACED IN THE PERFORMANCE INCENTIVE COUNTY GRANT FUND FOR PURPOSES ESTABLISHED UNDER § 9-3209(B)(1) OF THIS SUBTITLE; AND

(II) THE REMAINING SAVINGS SHALL BE USED FOR ADDITIONAL SERVICES IDENTIFIED AS REINVESTMENT PRIORITIES IN THE JUSTICE REINVESTMENT COORDINATING COUNCIL'S FINAL REPORT."

On page 75, in line 1, strike "(B)" and substitute "(C)"; strike beginning with "THE" in line 1 down through "MARYLAND" in line 2 and substitute "AN ACADEMIC INSTITUTION"; in line 17, strike "AND"; and in line 18, after "POPULATION" insert ";
AND

(7) DEPARTURES BY THE COURT AND THE COMMISSION FROM THE SENTENCING LIMITS FOR TECHNICAL VIOLATIONS UNDER §§ 6-223 AND 6-224 OF THE CRIMINAL PROCEDURE ARTICLE AND §§ 7-401 AND 7-504 OF THE CORRECTIONAL SERVICES ARTICLE".

On page 76, in line 21, strike "AND"; and in line 22, after "(IX)" insert "PROVIDE FOR SUBSTANCE USE DISORDER AND MENTAL HEALTH SERVICE PROGRAMS; AND

(X)".

(Over)

**SB1005/508476/1 Judicial Proceedings Committee
Amendments to SB 1005
Page 26 of 26**

On pages 79 through 81, strike in their entirety the lines beginning with line 18 on page 79 through line 22 on page 81, inclusive.

AMENDMENT NO. 7

On page 82, in lines 25, 26, 27, 28, 32, and 33, strike “2017”, “2018”, “2019”, “2020”, “2017”, and “2018”, respectively, and substitute “2018”, “2019”, “2020”, “2021”, “2018”, and “2019”, respectively.

On page 83, in lines 1 and 2, strike “2019” and “2020”, respectively, and substitute “2020” and “2021”, respectively; and after line 33, insert:

“SECTION 10. AND BE IT FURTHER ENACTED, That local correctional facilities shall, in coordination with the Department of Health and Mental Hygiene and local health departments, conduct an analysis to determine the budgetary requirements of this Act and shall report a plan for meeting the budgetary requirements to the General Assembly, in accordance with § 2-1246 of the State Government Article, on or before June 30, 2017.

SECTION 11. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that local correctional facilities and local health departments provide funding for treatment required for individuals diverted from incarceration for a violation of § 5-601 of the Criminal Law Article as enacted by Section 1 of this Act.

SECTION 12. AND BE IT FURTHER ENACTED, That § 3-704 of the Correctional Services Article, as enacted by Section 1 of this Act, shall be construed prospectively to apply only to inmates that are sentenced on or after October 1, 2017.

SECTION 13. AND BE IT FURTHER ENACTED, That Section 1, Section 6, and Section 7 of this Act shall take effect October 1, 2017.”.

On page 84, in line 1, strike “10.” and substitute “14.”; and in the same line, after “That” insert “, except as provided in Section 13 of this Act.”.