

SENATE BILL 1066

E2
SB 121/16 – JPR

EMERGENCY BILL

7lr3406

By: **Senator Simonaire**

Introduced and read first time: February 14, 2017

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – Modification of Sentences**

3 FOR the purpose of authorizing the State to appeal a certain sentence modification to a
4 certain review panel; authorizing a certain review panel to review a certain sentence
5 modification; prohibiting a certain review panel from increasing a certain sentence
6 in a certain manner; requiring that the court provide notice to the State if a certain
7 review panel changes a certain sentence in a certain manner; providing for the
8 application of this Act; making this Act an emergency measure; and generally
9 relating to modification of sentences.

10 BY adding to

11 Article – Criminal Procedure

12 Section 6–234

13 Annotated Code of Maryland

14 (2008 Replacement Volume and 2016 Supplement)

15 BY repealing and reenacting, with amendments,

16 Article – Criminal Procedure

17 Section 8–105

18 Annotated Code of Maryland

19 (2008 Replacement Volume and 2016 Supplement)

20 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

21 That the Laws of Maryland read as follows:

22 **Article – Criminal Procedure**

23 **6–234.**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **IF THE COURT GRANTS A MOTION FOR MODIFICATION OF SENTENCE FOR A**
2 **CRIME OF VIOLENCE AS DEFINED IN § 14–101 OF THE CRIMINAL LAW ARTICLE AND**
3 **REDUCES THE SENTENCE BELOW THE MINIMUM SENTENCE RECOMMENDED BY THE**
4 **SENTENCING GUIDELINES ESTABLISHED UNDER § 6–208 OF THIS SUBTITLE IN**
5 **EFFECT AT THE TIME OF THE ORIGINAL SENTENCE, THE STATE MAY APPEAL THE**
6 **SENTENCE TO A THREE–JUDGE PANEL DESCRIBED IN § 8–105 OF THIS ARTICLE.**

7 8–105.

8 (a) A review panel consists of three or more circuit court judges of the judicial
9 circuit in which the sentencing court is located.

10 (b) Notwithstanding any Maryland Rule, the sentencing judge may not be a
11 member of the review panel, but on request of the sentencing judge, the sentencing judge
12 may sit with the review panel only in an advisory capacity.

13 (c) (1) A review panel shall consider each application for review of a sentence
14 **OR SENTENCE MODIFICATION UNDER § 6–234 OF THIS ARTICLE.**

15 (2) A review panel may require the Division of Parole and Probation to
16 make investigations, reports, and recommendations.

17 (3) A review panel:

18 (i) with or without a hearing, may decide that the sentence **OR**
19 **SENTENCE MODIFICATION UNDER § 6–234 OF THIS ARTICLE** under review should
20 remain unchanged; or

21 (ii) **SUBJECT TO PARAGRAPH (4) OF THIS SUBSECTION**, after a
22 hearing, may order a different sentence to be imposed or served, including:

- 23 1. an increased sentence;
- 24 2. subject to § 8–107(c) of this subtitle, a decreased sentence;
- 25 3. a suspended sentence to be served wholly or partly; or
- 26 4. a sentence to be suspended with or without probation.

27 **(4) IF A REVIEW PANEL REVIEWING A SENTENCE MODIFICATION**
28 **UNDER § 6–234 OF THIS ARTICLE CHOOSES TO INCREASE THE SENTENCE BEING**
29 **REVIEWED, THE SENTENCE MAY NOT EXCEED A SENTENCE THAT CORRESPONDS**
30 **WITH THE MINIMUM SENTENCE RECOMMENDED BY THE SENTENCING GUIDELINES**
31 **FOR THE CRIME ESTABLISHED UNDER § 6–208 OF THIS ARTICLE IN EFFECT AT THE**
32 **TIME OF THE ORIGINAL SENTENCE.**

1 ~~[(4)]~~ **(5)** In deciding to order a different sentence, the review panel may
2 impose conditions that the review panel considers just and that could have been imposed
3 lawfully by the sentencing court when the sentence **OR SENTENCE MODIFICATION**
4 **UNDER § 6-234 OF THIS ARTICLE** was imposed.

5 (d) If the review panel orders a different sentence, the review panel shall
6 resentence and notify the defendant **AND THE STATE** in accordance with the order of the
7 panel.

8 **SECTION 2 AND BE IT FURTHER ENACTED**, That this Act shall be construed to
9 apply retroactively and shall be applied to and interpreted to affect any person convicted
10 before, on, or after the effective date of this Act.

11 **SECTION 3. AND BE IT FURTHER ENACTED**, That this Act is an emergency
12 measure, is necessary for the immediate preservation of the public health or safety, has
13 been passed by a yea and nay vote supported by three-fifths of all the members elected to
14 each of the two Houses of the General Assembly, and shall take effect from the date it is
15 enacted.