

SENATE BILL 199

E1

EMERGENCY BILL

8lr0127
CF HB 100

By: **The President (By Request – Administration) and Senators Bates, Cassilly, Eckardt, Hershey, Hough, Jennings, Norman, Ready, Reilly, Salling, Serafini, and Waugh**

Introduced and read first time: January 17, 2018

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law – Violent Offenders – Penalties**
3 **(Accountability for Violent Criminals Act of 2018)**

4 FOR the purpose of increasing the amount of time a certain inmate who is sentenced to life
5 imprisonment must serve before parole eligibility; eliminating parole eligibility for
6 certain violent offenders under certain circumstances; restricting a court from
7 ordering a certain substance use evaluation and commitment for certain defendants
8 charged with, convicted of, or serving a sentence for a crime of violence under certain
9 circumstances; making the provisions of this Act severable; making this Act an
10 emergency measure; and generally relating to crimes of violence.

11 BY repealing and reenacting, with amendments,
12 Article – Correctional Services
13 Section 7–301(d)
14 Annotated Code of Maryland
15 (2017 Replacement Volume)

16 BY repealing and reenacting, without amendments,
17 Article – Criminal Law
18 Section 14–101(a)
19 Annotated Code of Maryland
20 (2012 Replacement Volume and 2017 Supplement)

21 BY repealing and reenacting, with amendments,
22 Article – Criminal Law
23 Section 14–101(d)
24 Annotated Code of Maryland
25 (2012 Replacement Volume and 2017 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY repealing and reenacting, with amendments,
 2 Article – Health – General
 3 Section 8–505(a), 8–506(a)(1), and 8–507(a)
 4 Annotated Code of Maryland
 5 (2015 Replacement Volume and 2017 Supplement)

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

8 **Article – Correctional Services**

9 7–301.

10 (d) (1) Except as provided in paragraphs (2) [and], (3), AND (4) of this
 11 subsection, an inmate who has been sentenced to life imprisonment is not eligible for parole
 12 consideration until the inmate has served 15 years or the equivalent of 15 years considering
 13 the allowances for diminution of the inmate’s term of confinement under § 6–218 of the
 14 Criminal Procedure Article and Title 3, Subtitle 7 of this article.

15 (2) An inmate who has been sentenced to life imprisonment as a result of
 16 a proceeding under former § 2–303 or § 2–304 of the Criminal Law Article is not eligible for
 17 parole consideration until the inmate has served 25 years or the equivalent of 25 years
 18 considering the allowances for diminution of the inmate’s term of confinement under §
 19 6–218 of the Criminal Procedure Article and Title 3, Subtitle 7 of this article.

20 (3) (i) If an inmate has been sentenced to imprisonment for life without
 21 the possibility of parole under § 2–203 or § 2–304 of the Criminal Law Article, the inmate
 22 is not eligible for parole consideration and may not be granted parole at any time during
 23 the inmate’s sentence.

24 (ii) This paragraph does not restrict the authority of the Governor to
 25 pardon or remit any part of a sentence under § 7–601 of this title.

26 **(4) AN INMATE WHO HAS BEEN SENTENCED TO LIFE IMPRISONMENT**
 27 **FOR A CRIME COMMITTED ON OR AFTER THE EFFECTIVE DATE OF**
 28 **CHAPTER ____ (S.B. __/H.B. __)(LR0127) OF THE ACTS OF THE GENERAL**
 29 **ASSEMBLY OF 2018 IS NOT ELIGIBLE FOR PAROLE CONSIDERATION UNTIL THE**
 30 **INMATE HAS SERVED 25 YEARS OR THE EQUIVALENT OF 25 YEARS CONSIDERING THE**
 31 **ALLOWANCES FOR DIMINUTION OF THE INMATE’S TERM OF CONFINEMENT UNDER §**
 32 **6–218 OF THE CRIMINAL PROCEDURE ARTICLE AND TITLE 3, SUBTITLE 7 OF THIS**
 33 **ARTICLE.**

34 [(4)] (5) Subject to paragraph [(5)] (6) of this subsection, if eligible for
 35 parole under this subsection, an inmate serving a term of life imprisonment may only be
 36 paroled with the approval of the Governor.

1 (16) sexual abuse of a minor under § 3–602 of this article if:

2 (i) the victim is under the age of 13 years and the offender is an
3 adult at the time of the offense; and

4 (ii) the offense involved:

5 1. vaginal intercourse, as defined in § 3–301 of this article;

6 2. a sexual act, as defined in § 3–301 of this article;

7 3. an act in which a part of the offender's body penetrates,
8 however slightly, into the victim's genital opening or anus; or

9 4. the intentional touching, not through the clothing, of the
10 victim's or the offender's genital, anal, or other intimate area for sexual arousal,
11 gratification, or abuse;

12 (17) home invasion under § 6–202(b) of this article;

13 (18) an attempt to commit any of the crimes described in items (1) through
14 (17) of this subsection;

15 (19) continuing course of conduct with a child under § 3–315 of this article;

16 (20) assault in the first degree;

17 (21) assault with intent to murder;

18 (22) assault with intent to rape;

19 (23) assault with intent to rob;

20 (24) assault with intent to commit a sexual offense in the first degree; and

21 (25) assault with intent to commit a sexual offense in the second degree.

22 (d) (1) **(I) [On] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**
23 **SUBSECTION, ON** conviction for a second time of a crime of violence committed on or after
24 October 1, 1994, a person shall be sentenced to imprisonment for the term allowed by law,
25 but not less than 10 years, if the person:

26 **[(i)] 1.** has been convicted on a prior occasion of a crime of
27 violence, including a conviction for a crime committed before October 1, 1994; and

28 **[(ii)] 2.** served a term of confinement in a correctional facility for

1 that conviction.

2 **[(2)] (II)** The court may not suspend all or part of the mandatory 10-year
3 sentence required under this [subsection] **PARAGRAPH.**

4 **(2) (I) ON CONVICTION FOR A SECOND TIME OF A CRIME OF**
5 **VIOLENCE COMMITTED ON OR AFTER THE EFFECTIVE DATE OF CHAPTER ____ (S.B.**
6 **___/H.B. ___)(LR0127) OF THE ACTS OF THE GENERAL ASSEMBLY OF 2018, A**
7 **PERSON SHALL BE SENTENCED TO IMPRISONMENT FOR THE TERM ALLOWED BY**
8 **LAW, BUT NOT LESS THAN 10 YEARS, IF THE PERSON:**

9 **1. HAS BEEN CONVICTED ON A PRIOR OCCASION OF A**
10 **CRIME OF VIOLENCE, INCLUDING A CONVICTION FOR A CRIME COMMITTED BEFORE**
11 **THE EFFECTIVE DATE OF CHAPTER ____ (S.B. ___/H.B. ___)(LR0127) OF THE ACTS**
12 **OF THE GENERAL ASSEMBLY OF 2018; AND**

13 **2. SERVED A TERM OF CONFINEMENT IN A**
14 **CORRECTIONAL FACILITY FOR THAT CONVICTION.**

15 **(II) THE COURT MAY NOT SUSPEND ALL OR PART OF THE**
16 **MANDATORY 10-YEAR SENTENCE REQUIRED UNDER THIS PARAGRAPH.**

17 **(III) A PERSON SENTENCED UNDER THIS PARAGRAPH IS NOT**
18 **ELIGIBLE FOR PAROLE EXCEPT IN ACCORDANCE WITH THE PROVISIONS OF § 4-305**
19 **OF THE CORRECTIONAL SERVICES ARTICLE.**

20 **Article – Health – General**

21 8-505.

22 (a) (1) **(I) [Before] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**
23 **SUBSECTION, BEFORE** or during a criminal trial, before or after sentencing, or before or
24 during a term of probation, the court may order the Department to evaluate a defendant to
25 determine whether, by reason of drug or alcohol abuse, the defendant is in need of and may
26 benefit from treatment if:

27 **[(i)] 1.** It appears to the court that the defendant has an alcohol
28 or drug abuse problem; or

29 **[(ii)] 2.** The defendant alleges an alcohol or drug dependency.

30 **[(2)] (II)** A court shall set and may change the conditions under which an
31 examination is to be conducted under this section.

32 **[(3)] (III)** The Department shall ensure that each evaluation under this

1 section is conducted in accordance with regulations adopted by the Department.

2 **(2) FOR A DEFENDANT WHO IS CHARGED WITH, CONVICTED OF, OR**
3 **SERVING A SENTENCE FOR A CRIME OF VIOLENCE AS DEFINED UNDER § 14–101 OF**
4 **THE CRIMINAL LAW ARTICLE, A COURT MAY NOT ORDER THE DEPARTMENT TO**
5 **EVALUATE A DEFENDANT UNDER THIS SECTION UNDER ANY OF THE FOLLOWING**
6 **CIRCUMSTANCES:**

7 **(I) BEFORE OR DURING A CRIMINAL TRIAL;**

8 **(II) BEFORE OR AFTER SENTENCING, IF THE COURT HAS**
9 **ORDERED A TERM OF IMPRISONMENT; OR**

10 **(III) FOR A DEFENDANT WHO IS SENTENCED TO IMPRISONMENT**
11 **FOR A CRIME OF VIOLENCE, UNTIL THE DEFENDANT IS ELIGIBLE FOR PAROLE.**

12 8–506.

13 (a) **[A] SUBJECT TO THE ELIGIBILITY RESTRICTIONS UNDER § 8–505(A) OF**
14 **THIS SUBTITLE, A court may commit a defendant to the Department for inpatient**
15 **evaluation as to drug or alcohol abuse if:**

16 (1) The court finds it is not clinically appropriate for the defendant to be
17 evaluated in a detention facility or an appropriate outpatient facility; and

18 8–507.

19 (a) **(1) [Subject] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**
20 **SUBSECTION AND SUBJECT to the limitations in this section, a court that finds in a**
21 **criminal case or during a term of probation that a defendant has an alcohol or drug**
22 **dependency may commit the defendant as a condition of release, after conviction, or at any**
23 **other time the defendant voluntarily agrees to participate in treatment, to the Department**
24 **for treatment that the Department recommends, even if:**

25 **[(1)] (I) The defendant did not timely file a motion for reconsideration**
26 **under Maryland Rule 4–345; or**

27 **[(2)] (II) The defendant timely filed a motion for reconsideration under**
28 **Maryland Rule 4–345 which was denied by the court.**

29 **(2) FOR A DEFENDANT WHO IS CHARGED WITH, CONVICTED OF, OR**
30 **SERVING A SENTENCE FOR A CRIME OF VIOLENCE AS DEFINED UNDER § 14–101 OF**
31 **THE CRIMINAL LAW ARTICLE, A COURT IN A CRIMINAL CASE MAY NOT COMMIT A**
32 **DEFENDANT TO THE DEPARTMENT FOR TREATMENT UNDER THIS SECTION UNDER**
33 **ANY OF THE FOLLOWING CIRCUMSTANCES:**

1 **(I) BEFORE OR DURING TRIAL;**

2 **(II) BEFORE OR AFTER SENTENCING, IF THE COURT HAS**
3 **ORDERED A TERM OF IMPRISONMENT; OR**

4 **(III) FOR A DEFENDANT WHO IS SENTENCED TO IMPRISONMENT**
5 **FOR A CRIME OF VIOLENCE, UNTIL THE DEFENDANT IS ELIGIBLE FOR PAROLE.**

6 SECTION 2. AND BE IT FURTHER ENACTED, That, if any provision of this Act or
7 the application thereof to any person or circumstance is held invalid for any reason in a
8 court of competent jurisdiction, the invalidity does not affect other provisions or any other
9 application of this Act that can be given effect without the invalid provision or application,
10 and for this purpose the provisions of this Act are declared severable.

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.