

# HOUSE BILL 883

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HB 1082/18 – JUD & HGO

9lr1991

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By: **Delegate Dumais**

Introduced and read first time: February 8, 2019

Assigned to: Judiciary and Health and Government Operations

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 12, 2019

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Justice Reinvestment Act – Modifications**

3 FOR the purpose of providing that a certain presumption may be rebutted if a certain  
4 commissioner or court finds and states on the record at a certain time that adhering  
5 to certain limits would create a risk to a certain parolee, inmate, probationer, or  
6 defendant; authorizing a certain commissioner or court to take certain actions on  
7 finding that adhering to certain limits would create a risk to a certain parolee,  
8 inmate, probationer, or defendant; requiring a certain designee who may conduct a  
9 certain assessment to be certified or licensed, rather than certified and licensed;  
10 requiring a court to hold a hearing on a certain application; authorizing a certain  
11 person serving a certain term of confinement for an offense relating to volume  
12 dealing in cocaine base imposed on or before a certain date to file a certain motion to  
13 modify or reduce the sentence under certain circumstances; altering penalties for  
14 obtaining, attempting to obtain, possessing, or distributing controlled paraphernalia;  
15 altering a certain incorrect statutory reference; repealing a requirement that a  
16 certain person file a certain petition in a certain court under certain circumstances;  
17 altering a provision of law to require the State's Attorney, rather than the court, to  
18 send a certain notice to a certain victim at the victim's last known address, rather  
19 than the address listed in the court file; altering the membership of the advisory  
20 board of the Justice Reinvestment Oversight Board; ~~altering a provision relating to~~  
21 ~~the expiration of the terms of certain members of the Justice Reinvestment~~  
22 ~~Oversight Board~~; making conforming changes; making clarifying changes; making a  
23 certain technical correction; and generally relating to justice reinvestment.

24 BY repealing and reenacting, with amendments,

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### EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Article – Correctional Services  
2 Section 7–401 and 7–504  
3 Annotated Code of Maryland  
4 (2017 Replacement Volume and 2018 Supplement)

5 BY repealing and reenacting, with amendments,  
6 Article – Criminal Law  
7 Section 5–601(e)(1), 5–609.1, and 5–620  
8 Annotated Code of Maryland  
9 (2012 Replacement Volume and 2018 Supplement)

10 BY adding to  
11 Article – Criminal Law  
12 Section 5–612.1  
13 Annotated Code of Maryland  
14 (2012 Replacement Volume and 2018 Supplement)

15 BY repealing and reenacting, with amendments,  
16 Article – Criminal Procedure  
17 Section 6–223, 6–224, and 10–110(a), (b), and (e)  
18 Annotated Code of Maryland  
19 (2018 Replacement Volume)

20 BY repealing and reenacting, without amendments,  
21 Article – State Government  
22 Section 9–3202  
23 Annotated Code of Maryland  
24 (2014 Replacement Volume and 2018 Supplement)

25 BY repealing and reenacting, with amendments,  
26 Article – State Government  
27 Section ~~9–3203(a)~~ 9–3207(e)  
28 Annotated Code of Maryland  
29 (2014 Replacement Volume and 2018 Supplement)

30 BY repealing and reenacting, with amendments,  
31 Article – Transportation  
32 Section 16–303(k)  
33 Annotated Code of Maryland  
34 (2012 Replacement Volume and 2018 Supplement)

35 ~~BY repealing and reenacting, with amendments,~~  
36 ~~Chapter 515 of the Acts of the General Assembly of 2016~~  
37 ~~Section 10~~

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

**Article – Correctional Services**

1

2 7–401.

3 (a) If a parolee is alleged to have violated a condition of parole, one commissioner  
4 shall hear the case on revocation of the parole at the time and place that the Commission  
5 designates.

6 (b) (1) Each individual charged with a parole violation is entitled to be  
7 represented by counsel of the individual's choice or, if eligible, counsel provided by the  
8 Public Defender's office.

9 (2) The Commission shall keep a record of the hearing.

10 (c) If the commissioner finds from the evidence that the parolee has violated a  
11 condition of parole, the commissioner may take any action that the commissioner considers  
12 appropriate, including:

13 (1) (i) subject to subsection (d)(1) of this section, revoking the order of  
14 parole;

15 (ii) setting a future hearing date for consideration for reparole; and

16 (iii) remanding the individual to the Division of Correction or local  
17 correctional facility from which the individual was paroled; or

18 (2) continuing parole:

19 (i) without modification of its conditions; or

20 (ii) with modification of its conditions, including a requirement that  
21 the parolee spend all or part of the remaining parole period in a home detention program.

22 (d) (1) Subject to paragraph (4) of this subsection, if an order of parole is  
23 revoked due to a technical violation, as defined in § 6–101 of this article, the commissioner  
24 hearing the parole revocation may require the individual to serve a period of imprisonment  
25 of:

26 (i) for a first violation, not more than 15 days;

27 (ii) for a second violation, not more than 30 days; and

28 (iii) for a third violation, not more than 45 days.

29 (2) Subject to paragraph (3) of this subsection and further action by the  
30 Commission, if the order of parole is revoked for a fourth or subsequent technical violation

1 or a violation that is not a technical violation, the commissioner hearing the parole  
2 revocation, in the commissioner's discretion, may require the inmate to serve any unserved  
3 portion of the sentence originally imposed.

4 (3) An inmate may not receive credit for time between release on parole  
5 and revocation of parole if:

6 (i) the inmate was serving a sentence for a violent crime when  
7 parole was revoked; and

8 (ii) the parole was revoked due to a finding that the inmate  
9 committed a violent crime while on parole.

10 (4) (i) There is a rebuttable presumption that the limits on the period  
11 of imprisonment that may be imposed for a technical violation established in paragraph (1)  
12 of this subsection are applicable.

13 (ii) The presumption may be rebutted if a commissioner finds and  
14 states on the record, after consideration of the following factors, that adhering to the limits  
15 on the period of imprisonment established under paragraph (1) of this subsection would  
16 create a risk to public safety, **THE PAROLEE**, a victim, or a witness:

- 17 1. the nature of the parole violation;
- 18 2. the facts and circumstances of the crime for which the  
19 parolee was convicted; and
- 20 3. the parolee's history.

21 (iii) On finding that adhering to the limits would create a risk to  
22 public safety, **THE PAROLEE**, a victim, or a witness under subparagraph (ii) of this  
23 paragraph, the commissioner may:

24 1. direct imposition of a longer period of imprisonment than  
25 provided in paragraph (1) of this subsection, but no more than the time remaining on the  
26 original sentence; or

27 2. commit the parolee to the Maryland Department of Health  
28 for treatment under § 8–507 of the Health – General Article.

29 (iv) A finding under subparagraph (ii) of this paragraph or an action  
30 under subparagraph (iii) of this paragraph is subject to appeal under Title 12, Subtitle 3 or  
31 Subtitle 4 of the Courts Article.

32 (e) Subject to subsection (d) of this section, if a sentence has commenced as  
33 provided under § 9–202(c)(2) of this article and the inmate is serving that sentence when  
34 the order of parole is revoked, any reimposed portion of the sentence originally imposed

1 shall begin at the expiration of any sentences which were begun under § 9–202(c)(2) of this  
2 article.

3 (f) (1) The inmate may seek judicial review in the circuit court within 30 days  
4 after receiving the written decision of the Commission.

5 (2) The court shall hear the action on the record.

6 7–504.

7 (a) (1) In this section the following words have the meanings indicated.

8 (2) “Technical violation” has the meaning stated in § 6–101 of this article.

9 (3) “Term of confinement” has the meaning stated in § 3–701 of this article.

10 (b) (1) Subject to paragraph (3) of this subsection, the commissioner presiding  
11 at an individual’s mandatory supervision revocation hearing may revoke diminution credits  
12 previously earned by the individual on the individual’s term of confinement in accordance  
13 with the following schedule:

14 (i) not more than 15 days for a first technical violation;

15 (ii) not more than 30 days for a second technical violation;

16 (iii) not more than 45 days for a third technical violation; and

17 (iv) up to all remaining days for a fourth or subsequent technical  
18 violation or a violation that is not a technical violation.

19 (2) Nothing in this section affects the prohibition against the application of  
20 diminution credits under § 7–502 of this subtitle to the term of confinement of an inmate  
21 convicted and sentenced to imprisonment for a crime committed while on mandatory  
22 supervision.

23 (3) (i) There is a rebuttable presumption that the limits on the  
24 revocation of diminution credits for a technical violation established in paragraph (1) of this  
25 subsection are applicable.

26 (ii) The presumption may be rebutted if a commissioner finds and  
27 states on the record, after consideration of the following factors, that adhering to the limits  
28 on the revocation of diminution credits established under paragraph (1) of this subsection  
29 would create a risk to public safety, **THE INMATE**, a victim, or a witness:

30 1. the nature of the mandatory supervision violation;



1 (1) retention of the mandatory minimum sentence would not result in  
2 substantial injustice to the defendant; and

3 (2) the mandatory minimum sentence is necessary for the protection of the  
4 public.

5 (c) (1) Except as provided in paragraph (2) of this subsection, an application  
6 [for a hearing] under subsection (a) of this section shall be [submitted to] **FILED WITH** the  
7 court or review panel on or before September 30, 2018.

8 (2) The court may consider an application **FILED** after September 30, 2018,  
9 only for good cause shown.

10 (3) The court shall notify the State's Attorney of [a request for a hearing]  
11 **THE FILING OF AN APPLICATION.**

12 (4) A person may not file more than one application [for a hearing] under  
13 subsection (a) of this section for a mandatory minimum sentence for a violation of §§ 5-602  
14 through 5-606 of this subtitle.

15 **(5) THE COURT SHALL HOLD A HEARING ON AN APPLICATION FILED**  
16 **UNDER SUBSECTION (A) OF THIS SECTION.**

17 **5-612.1.**

18 **(A) NOTWITHSTANDING ANY OTHER PROVISION OF LAW AND SUBJECT TO**  
19 **SUBSECTION (C) OF THIS SECTION, A PERSON WHO IS SERVING A TERM OF**  
20 **CONFINEMENT THAT INCLUDES A MANDATORY MINIMUM SENTENCE IMPOSED ON OR**  
21 **BEFORE SEPTEMBER 30, 2017, FOR A VIOLATION OF § 5-612 OF THIS SUBTITLE**  
22 **INVOLVING LESS THAN 448 GRAMS OF COCAINE BASE MAY APPLY TO THE COURT TO**  
23 **MODIFY OR REDUCE THE MANDATORY MINIMUM SENTENCE AS PROVIDED IN**  
24 **MARYLAND RULE 4-345, REGARDLESS OF WHETHER THE DEFENDANT FILED A**  
25 **TIMELY MOTION FOR RECONSIDERATION OR A MOTION FOR RECONSIDERATION WAS**  
26 **DENIED BY THE COURT.**

27 **(B) THE COURT MAY MODIFY THE SENTENCE AND DEPART FROM THE**  
28 **MANDATORY MINIMUM SENTENCE UNLESS THE STATE SHOWS THAT, GIVING DUE**  
29 **REGARD TO THE NATURE OF THE CRIME, THE HISTORY AND CHARACTER OF THE**  
30 **DEFENDANT, AND THE DEFENDANT'S CHANCES OF SUCCESSFUL REHABILITATION:**

31 **(1) RETENTION OF THE MANDATORY MINIMUM SENTENCE WOULD**  
32 **NOT RESULT IN SUBSTANTIAL INJUSTICE TO THE DEFENDANT; AND**

33 **(2) THE MANDATORY MINIMUM SENTENCE IS NECESSARY FOR THE**  
34 **PROTECTION OF THE PUBLIC.**

1           **(C) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,**  
2 **AN APPLICATION UNDER SUBSECTION (A) OF THIS SECTION SHALL BE FILED WITH**  
3 **THE COURT OR REVIEW PANEL ON OR BEFORE SEPTEMBER 30, 2020.**

4           **(2) THE COURT MAY CONSIDER AN APPLICATION FILED AFTER**  
5 **SEPTEMBER 30, 2020, ONLY FOR GOOD CAUSE SHOWN.**

6           **(3) THE COURT SHALL NOTIFY THE STATE'S ATTORNEY OF THE**  
7 **FILING OF AN APPLICATION.**

8           **(4) A PERSON MAY NOT FILE MORE THAN ONE APPLICATION UNDER**  
9 **SUBSECTION (A) OF THIS SECTION FOR A MANDATORY MINIMUM SENTENCE FOR A**  
10 **VIOLATION OF § 5-612 OF THIS SUBTITLE INVOLVING LESS THAN 448 GRAMS OF**  
11 **COCAINE BASE.**

12           **(5) THE COURT SHALL HOLD A HEARING ON AN APPLICATION FILED**  
13 **UNDER SUBSECTION (A) OF THIS SECTION.**

14 5-620.

15           (a) Unless authorized under this title, a person may not:

16           (1) obtain or attempt to obtain controlled paraphernalia by:

17           (i) fraud, deceit, misrepresentation, or subterfuge;

18           (ii) counterfeiting a prescription or a written order;

19           (iii) concealing a material fact or the use of a false name or address;

20           (iv) falsely assuming the title of or representing to be a  
21 manufacturer, distributor, or authorized provider; or

22           (v) making or issuing a false or counterfeit prescription or written  
23 order; or

24           (2) possess or distribute controlled paraphernalia under circumstances  
25 which reasonably indicate an intention to use the controlled paraphernalia for purposes of  
26 illegally administering a controlled dangerous substance.

27           (b) Evidence of circumstances that reasonably indicate an intent to use controlled  
28 paraphernalia to manufacture, administer, distribute, or dispense a controlled dangerous  
29 substance unlawfully include the close proximity of the controlled paraphernalia to an  
30 adulterant, diluent, or equipment commonly used to illegally manufacture, administer,  
31 distribute, or dispense controlled dangerous substances, including:

- 1 (1) a scale;
- 2 (2) a sieve;
- 3 (3) a strainer;
- 4 (4) a measuring spoon;
- 5 (5) staples;
- 6 (6) a stapler;
- 7 (7) a glassine envelope;
- 8 (8) a gelatin capsule;
- 9 (9) procaine hydrochloride;
- 10 (10) mannitol;
- 11 (11) lactose;
- 12 (12) quinine; and
- 13 (13) a controlled dangerous substance.

14 (c) Information that is communicated to a physician to obtain controlled  
15 paraphernalia from the physician in violation of this subtitle is not a privileged  
16 communication.

17 (d) [(1) Except as provided in paragraph (2) of this subsection, a] **A** person who  
18 violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment  
19 not exceeding [4 years] **1 YEAR** or a fine not exceeding [\$25,000] **\$5,000** or both.

20 [(2) A person who violates this section involving the use or possession of  
21 marijuana is subject to imprisonment not exceeding 1 year or a fine not exceeding \$1,000  
22 or both.]

## 23 Article – Criminal Procedure

24 6–223.

25 (a) A circuit court or the District Court may end the period of probation at any  
26 time.

1 (b) On receipt of written charges, filed under oath, that a probationer or  
2 defendant violated a condition of probation during the period of probation, the District  
3 Court may, during the period of probation or within 30 days after the violation, whichever  
4 is later, issue a warrant or notice requiring the probationer or defendant to be brought or  
5 appear before the judge issuing the warrant or notice:

6 (1) to answer the charge of violation of a condition of probation or of  
7 suspension of sentence; and

8 (2) to be present for the setting of a timely hearing date for that charge.

9 (c) Pending the hearing or determination of the charge, a circuit court or the  
10 District Court may remand the probationer or defendant to a correctional facility or release  
11 the probationer or defendant with or without bail.

12 (d) If, at the hearing, a circuit court or the District Court finds that the  
13 probationer or defendant has violated a condition of probation, the court may:

14 (1) revoke the probation granted or the suspension of sentence; and

15 (2) (i) subject to subsection (e) of this subsection, for a technical  
16 violation, impose a period of incarceration of:

17 1. not more than 15 days for a first technical violation;

18 2. not more than 30 days for a second technical violation; and

19 3. not more than 45 days for a third technical violation; and

20 (ii) for a fourth or subsequent technical violation or a violation that  
21 is not a technical violation, impose any [sentence that might have originally been]  
22 **UNSERVED PORTION OF THE SENTENCE ORIGINALLY** imposed for the crime of which  
23 the probationer or defendant was convicted or pleaded nolo contendere.

24 (e) (1) There is a rebuttable presumption that the limits on the period of  
25 incarceration that may be imposed for a technical violation established under subsection  
26 (d)(2) of this section are applicable.

27 (2) The presumption may be rebutted if the court finds and states on the  
28 record, after consideration of the following factors, that adhering to the limits on the period  
29 of incarceration established under subsection (d)(2) of this section would create a risk to  
30 public safety, **THE PROBATIONER OR DEFENDANT**, a victim, or a witness:

31 (i) the nature of the probation violation;

32 (ii) the facts and circumstances of the crime for which the  
33 probationer or defendant was convicted; and

1 (iii) the probationer's or defendant's history.

2 (3) On finding that adhering to the limits would create a risk to public  
3 safety, **THE PROBATIONER OR DEFENDANT**, a victim, or a witness under paragraph (2)  
4 of this subsection, the court may:

5 (i) direct imposition of a longer period of incarceration than  
6 provided under subsection (d)(2) of this section, but no more than the time remaining on  
7 the original sentence; or

8 (ii) commit the probationer or defendant to the Maryland  
9 Department of Health for treatment under § 8-507 of the Health – General Article.

10 (4) A finding under paragraph (2) of this subsection or an action under  
11 paragraph (3) of this subsection is subject to appeal under Title 12, Subtitle 3 or Subtitle 4  
12 of the Courts Article.

13 6-224.

14 (a) This section applies to a defendant who is convicted of a crime for which the  
15 court:

16 (1) does not impose a sentence;

17 (2) suspends the sentence generally;

18 (3) places the defendant on probation for a definite time; or

19 (4) passes another order and imposes other conditions of probation.

20 (b) If a defendant is brought before a circuit court to be sentenced on the original  
21 charge or for violating a condition of probation, and the judge then presiding finds that the  
22 defendant violated a condition of probation, the judge:

23 (1) subject to subsection (c) of this section, may sentence the defendant to:

24 (i) all or any part of the period of imprisonment imposed in the  
25 original sentence; or

26 (ii) any sentence allowed by law, if a sentence was not imposed  
27 before; and

28 (2) may suspend all or part of a sentence and place the defendant on  
29 further probation on any conditions that the judge considers proper, and that do not exceed  
30 the maximum set under § 6-222 of this subtitle.

1 (c) (1) Subject to paragraph (2) of this subsection, if the court finds that the  
2 defendant violated a condition of probation that is a technical violation, the court may  
3 impose a period of incarceration of:

4 (i) not more than 15 days for a first technical violation;

5 (ii) not more than 30 days for a second technical violation;

6 (iii) not more than 45 days for a third technical violation; and

7 (iv) [all or any part of the period of imprisonment imposed in the  
8 original sentence] **ANY UNSERVED PORTION OF THE SENTENCE ORIGINALLY IMPOSED**  
9 for a fourth or subsequent technical violation.

10 (2) (i) There is a rebuttable presumption that the limits on the period  
11 of incarceration that may be imposed for a technical violation established in paragraph (1)  
12 of this subsection are applicable.

13 (ii) The presumption may be rebutted if the court finds and states on  
14 the record, after consideration of the following factors, that adhering to the limits on the  
15 period of incarceration established under paragraph (1) of this subsection would create a  
16 risk to public safety, **THE DEFENDANT**, a victim, or a witness:

17 1. the nature of the probation violation;

18 2. the facts and circumstances of the crime for which the  
19 defendant was convicted; and

20 3. the defendant's history.

21 (iii) On finding that adhering to the limits would create a risk to  
22 public safety, **THE DEFENDANT**, a victim, or a witness under subparagraph (ii) of this  
23 paragraph, the court may:

24 1. direct imposition of a longer period of incarceration than  
25 provided in paragraph (1) of this subsection, but no more than the time remaining on the  
26 original sentence; or

27 2. commit the defendant to the Maryland Department of  
28 Health for treatment under § 8–507 of the Health – General Article.

29 (iv) A finding under subparagraph (ii) of this paragraph or an action  
30 under subparagraph (iii) of this paragraph is subject to appeal under Title 12, Subtitle 3 or  
31 Subtitle 4 of the Courts Article.

1 (d) (1) The District Court judge who originally imposed conditions of probation  
2 or suspension of sentence shall hear any charge of violation of the conditions of probation  
3 or suspension of sentence.

4 (2) Except as provided in paragraph (3) of this subsection, the judge shall  
5 sentence the defendant if probation is revoked or suspension stricken.

6 (3) If the judge has been removed from office, has died or resigned, or is  
7 otherwise incapacitated, any other judge of the District Court may act in the matter.

8 10–110.

9 (a) A person may file a petition listing relevant facts for expungement of a police  
10 record, court record, or other record maintained by the State or a political subdivision of  
11 the State if the person is convicted of:

12 (1) a misdemeanor that is a violation of:

13 (i) § 6–320 of the Alcoholic Beverages Article;

14 (ii) an offense listed in § 17–613(a) of the Business Occupations and  
15 Professions Article;

16 (iii) § 5–712, § 19–304, § 19–308, or Title 5, Subtitle 6 or Subtitle 9 of  
17 the Business Regulation Article;

18 (iv) § 3–1508 or § 10–402 of the Courts Article;

19 (v) § 14–1915, § 14–2902, or § 14–2903 of the Commercial Law  
20 Article;

21 (vi) § 5–211 of this article;

22 (vii) § 3–203 or § 3–808 of the Criminal Law Article;

23 (viii) § 5–601 not involving the use or possession of marijuana, §  
24 5–618, § 5–619, § 5–620, § 5–703, § 5–708, or § 5–902 of the Criminal Law Article;

25 (ix) § 6–105, § 6–108, § 6–206, § 6–303, § 6–306, § 6–307, § 6–402, or  
26 § 6–503 of the Criminal Law Article;

27 (x) § 7–104, § 7–203, § 7–205, § 7–304, § 7–308, or § 7–309 of the  
28 Criminal Law Article;

29 (xi) § 8–103, § 8–206, § 8–401, § 8–402, § 8–404, § 8–406, § 8–408, §  
30 8–503, § 8–521, § 8–523, or § 8–904 of the Criminal Law Article;

- 1 (xii) § 9–204, § 9–205, § 9–503, or § 9–506 of the Criminal Law Article;
- 2 (xiii) § 10–110, § 10–201, § 10–402, **OR** § 10–404[, or § 10–502] of the  
3 Criminal Law Article;
- 4 (xiv) § 11–306(a) of the Criminal Law Article;
- 5 (xv) § 12–102, § 12–103, § 12–104, § 12–105, § 12–109, § 12–203, §  
6 12–204, § 12–205, or § 12–302 of the Criminal Law Article;
- 7 (xvi) § 13–401, § 13–602, or § 16–201 of the Election Law Article;
- 8 (xvii) § 4–509 of the Family Law Article;
- 9 (xviii) § 18–215 of the Health – General Article;
- 10 (xix) § 4–411 or § 4–2005 of the Housing and Community Development  
11 Article;
- 12 (xx) § 27–403, § 27–404, § 27–405, § 27–406, § 27–406.1, § 27–407, §  
13 27–407.1, or § 27–407.2 of the Insurance Article;
- 14 (xxi) § 5–307, § 5–308, § 6–602, § 7–402, or § 14–114 of the Public  
15 Safety Article;
- 16 (xxii) § 7–318.1, § 7–509, or § 10–507 of the Real Property Article;
- 17 (xxiii) § 9–124 of the State Government Article;
- 18 (xxiv) § 13–1001, § 13–1004, § 13–1007, or § 13–1024 of the Tax –  
19 General Article; **OR**
- 20 (xxv) the common law offenses of affray, rioting, criminal contempt,  
21 battery, or hindering; [or]
- 22 (2) a felony that is a violation of:
- 23 (i) § 7–104 of the Criminal Law Article;
- 24 (ii) the prohibition against possession with intent to distribute a  
25 controlled dangerous substance under § 5–602(2) of the Criminal Law Article; [or]
- 26 (iii) § 6–202(a), § 6–203, or § 6–204 of the Criminal Law Article; or
- 27 **(IV) § 10–502 OF THE CRIMINAL LAW ARTICLE; OR**

1 (3) an attempt, a conspiracy, or a solicitation of any offense listed in item  
2 (1) or (2) of this subsection.

3 (b) (1) Except as provided in paragraphs (2) and (3) of this subsection, a person  
4 shall file a petition for expungement in the court in which the proceeding began.

5 (2) [(i) Except as provided in subparagraph (ii) of this paragraph, if] **IF**  
6 the proceeding began in one court and was transferred to another court, the person shall  
7 file the petition in the court to which the proceeding was transferred.

8 [(ii) If the proceeding began in one court and was transferred to the  
9 juvenile court under § 4–202 or § 4–202.2 of this article, the person shall file the petition in  
10 the court of original jurisdiction from which the order of transfer was entered.]

11 (3) (i) If the proceeding in a court of original jurisdiction was appealed  
12 to a court exercising appellate jurisdiction, the person shall file the petition in the appellate  
13 court.

14 (ii) The appellate court may remand the matter to the court of  
15 original jurisdiction.

16 (e) (1) The court shall have a copy of a petition for expungement served on the  
17 State's Attorney.

18 (2) The [court] **STATE'S ATTORNEY** shall send written notice of the  
19 expungement request to each listed victim in the case in which the petitioner is seeking  
20 expungement at the **VICTIM'S LAST KNOWN** address [listed in the court file], advising the  
21 victim of the right to offer additional information relevant to the expungement petition to  
22 the court.

23 (3) Unless the State's Attorney or a victim files an objection to the petition  
24 for expungement within 30 days after the petition is served, the court shall pass an order  
25 requiring the expungement of all police records and court records about the charge.

## 26 Article – State Government

27 9–3202.

28 There is a Justice Reinvestment Oversight Board in the Governor's Office of Crime  
29 Control and Prevention.

30 ~~9–3203.~~

31 (a) ~~The Board consists of the following members:~~

32 (1) ~~one member of the Senate of Maryland, appointed by the President of~~  
33 ~~the Senate;~~

- 1                   (2)    ~~one member of the House of Delegates, appointed by the Speaker of the~~  
2 ~~House;~~
- 3                   (3)    ~~the Executive Director, or the Executive Director's designee;~~
- 4                   (4)    ~~the Secretary of Public Safety and Correctional Services, or the~~  
5 ~~Secretary's designee;~~
- 6                   (5)    ~~the chair of the Maryland Parole Commission, or the chair's designee;~~
- 7                   (6)    ~~the Secretary of State Police, or the Secretary's designee;~~
- 8                   (7)    ~~the Attorney General, or the Attorney General's designee;~~
- 9                   (8)    ~~the Public Defender, or the Public Defender's designee;~~
- 10                  (9)    ~~the Secretary of Budget and Management, or the Secretary's designee;~~
- 11                  (10)   ~~the Secretary of Health, or the Secretary's designee;~~
- 12                  (11)   ~~the chair of the Local Government Justice Reinvestment Commission,~~  
13 ~~or the chair's designee;~~
- 14                  (12)   ~~two members appointed by the Chief Judge of the Court of Appeals;~~
- 15                  (13)   ~~the Secretary of Labor, Licensing, and Regulation, or the Secretary's~~  
16 ~~designee;~~
- 17                  (14)   ~~one member appointed by the Maryland Chiefs and Sheriffs~~  
18 ~~Association;~~
- 19                  (15)   ~~the president of the Maryland State's Attorneys' Association or the~~  
20 ~~president's designee;~~
- 21                  (16)   ~~two members of the Maryland Correctional Administrators Association,~~  
22 ~~appointed by the president of the Maryland Correctional Administrators Association,~~  
23 ~~including one representative from a large correctional facility and one representative from~~  
24 ~~a small correctional facility;~~
- 25                  (17)   ~~the president of the Maryland Association of Counties or the president's~~  
26 ~~designee; [and]~~
- 27                  (18)   ~~ONE MEMBER REPRESENTING A COMMUNITY ADVOCACY~~  
28 ~~ORGANIZATION, APPOINTED BY THE PRESIDENT OF THE SENATE;~~

~~(19) ONE MEMBER REPRESENTING A COMMUNITY ADVOCACY ORGANIZATION, APPOINTED BY THE SPEAKER OF THE HOUSE; AND~~

~~[(18)] (20) the following individuals, appointed by the Governor:~~

~~(i) one member representing victims of crime;~~

~~(ii) one member representing law enforcement;~~

~~(iii) two local health officers; and~~

~~(iv) one member with direct experience teaching inmates in academic programs intended to achieve the goal of a high school diploma or general educational development certification.~~

9-3207.

(e) (1) The Board shall establish an advisory board for the purpose of including stakeholders in the criminal justice system in the analysis of the implementation of justice reinvestment initiatives.

(2) The Executive Director of the Governor's Office of Crime Control and Prevention shall appoint members of the advisory board, subject to the approval of the chair of the Board.

(3) Members of the advisory board shall include:

(i) a representative of the exclusive representative of the employees of the Division of Parole and Probation;

(ii) a representative of the National Association for the Advancement of Colored People;

(iii) a representative of CASA de Maryland;

(iv) a representative of the American Civil Liberties Union;

(v) the chair of the Criminal Law and Practice Section of the Maryland State Bar Association or the chair's designee;

(vi) a representative of victims of domestic violence;

(vii) a representative of victims of sexual assault;

(viii) a representative with clinical experience and expertise in behavioral health and criminal justice;

1                    (ix) a representative of the Maryland Retailers Association;

2                    (x) a representative of an organization whose mission is to develop  
 3 and advocate for policies and programs to increase the skills, job opportunities, and incomes  
 4 of low-skill, low-income workers and job seekers;

5                    (xi) a representative of an organization whose mission is to advocate  
 6 for ex-offenders; [and]

7                    (xii) a representative of the Maryland Chamber of Commerce;

8                    **(XIII) A REPRESENTATIVE OF A COMMUNITY ADVOCACY**  
 9 **ORGANIZATION APPOINTED BY THE PRESIDENT OF THE SENATE; AND**

10                    **(XIV) A REPRESENTATIVE OF A COMMUNITY ADVOCACY**  
 11 **ORGANIZATION APPOINTED BY THE SPEAKER OF THE HOUSE.**

12                    **Article – Transportation**

13 16-303.

14                    (k) (1) Except as provided in paragraph (2) of this subsection, a person  
 15 convicted of a violation of this section is subject to:

16                    (i) For a first offense, imprisonment not exceeding 1 year or a fine  
 17 not exceeding \$1,000 or both; and

18                    (ii) For a second or subsequent offense, imprisonment not exceeding  
 19 2 years or a fine not exceeding \$1,000 or both.

20                    (2) **(I)** A person [convicted of] **CHARGED WITH** a violation of subsection  
 21 (h) or (i) of this section:

22                    [(i) Is subject to a fine not exceeding \$500;

23                    [(ii)] **1.** Must appear in court; and

24                    [(iii)] **2.** May not prepay the fine.

25                    **(II) A PERSON CONVICTED OF A VIOLATION OF SUBSECTION (H)**  
 26 **OR (I) OF THIS SECTION IS SUBJECT TO A FINE NOT EXCEEDING \$500.**

27                    ~~Chapter 515 of the Acts of 2016~~

28                    ~~SECTION 10. AND BE IT FURTHER ENACTED, That the terms of the initial~~  
 29 ~~appointed members of the Justice Reinvestment Oversight Board shall expire as follows:~~

- 1           (1)   ~~[two] THREE members in 2017;~~
- 2           (2)   ~~[two] THREE members in 2018;~~
- 3           (3)   ~~[two] THREE members in 2019; and~~
- 4           (4)   ~~[two] THREE members in 2020.~~

5           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
6   October 1, 2019.

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.