

SENATE BILL 5

E2
SB 272/20 – JPR

EMERGENCY BILL

2lr0277
CF 2lr0278

By: **The President (By Request – Administration)**

Introduced and read first time: December 6, 2021

Assigned to: Rules

A BILL ENTITLED

AN ACT concerning

State Commission on Criminal Sentencing Policy – Plea Agreements and Annual Report (The Judicial Transparency Act of 2021)

FOR the purpose of providing that a sentence imposed under a plea agreement may not be considered to be compliant with certain sentencing guidelines unless the sentence falls within a certain range; requiring a certain annual report by the State Commission on Criminal Sentencing Policy to identify certain information for crimes of violence; and generally relating to the State Commission on Criminal Sentencing Policy.

BY repealing and reenacting, without amendments,
Article – Criminal Law
Section 14–101(a)
Annotated Code of Maryland
(2021 Replacement Volume and 2021 Supplement)

BY repealing and reenacting, without amendments,
Article – Criminal Procedure
Section 6–201
Annotated Code of Maryland
(2018 Replacement Volume and 2021 Supplement)

BY repealing and reenacting, with amendments,
Article – Criminal Procedure
Section 6–208 and 6–209
Annotated Code of Maryland
(2018 Replacement Volume and 2021 Supplement)

BY adding to
Article – Criminal Procedure

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Section 6–215
Annotated Code of Maryland
(2018 Replacement Volume and 2021 Supplement)

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

Article – Criminal Law

14–101.

(a) In this section, “crime of violence” means:

- (1) abduction;
- (2) arson in the first degree;
- (3) kidnapping;
- (4) manslaughter, except involuntary manslaughter;
- (5) mayhem;
- (6) maiming, as previously proscribed under former Article 27, §§ 385 and 386 of the Code;
- (7) murder;
- (8) rape;
- (9) robbery under § 3–402 or § 3–403 of this article;
- (10) carjacking;
- (11) armed carjacking;
- (12) sexual offense in the first degree;
- (13) sexual offense in the second degree;
- (14) use of a firearm in the commission of a felony except possession with intent to distribute a controlled dangerous substance under § 5–602(2) of this article, or other crime of violence;
- (15) child abuse in the first degree under § 3–601 of this article;
- (16) sexual abuse of a minor under § 3–602 of this article if:

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

(ii) the offense involved:

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

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

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

4. the intentional touching of the victim’s or the offender’s genital, anal, or other intimate area for sexual arousal, gratification, or abuse;

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

(18) a felony offense under Title 3, Subtitle 11 of this article;

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

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

(21) assault in the first degree;

(22) assault with intent to murder;

(23) assault with intent to rape;

(24) assault with intent to rob;

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

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

Article – Criminal Procedure

6–201.

In this part, “Commission” means the State Commission on Criminal Sentencing Policy.

6–208.

(a) (1) The Commission shall adopt sentencing guidelines that the

Commission may change.

(2) The sentencing guidelines shall include sentencing guidelines for ordinary sentences and sentencing guidelines for corrections options.

(b) The sentencing guidelines for ordinary sentences shall call for sentences within the limits set by law and shall set forth:

(1) the range of sentences for crimes of a given degree of seriousness;

(2) a range of increased severity for defendants previously convicted of or adjudicated delinquent for a previous crime; and

(3) a list of aggravating and mitigating circumstances.

(c) The sentencing guidelines for corrections options shall be designed to identify defendants qualified for corrections options programs.

(D) A SENTENCE IMPOSED UNDER A PLEA AGREEMENT MAY NOT BE CONSIDERED TO BE COMPLIANT WITH THE SENTENCING GUIDELINES UNLESS THE SENTENCE FALLS WITHIN THE ACTUAL SENTENCING GUIDELINES RANGE.

6–209.

(a) The Commission shall review annually sentencing policy and practice and, on or before January 31 of each year, report to the General Assembly, in accordance with § 2–1257 of the State Government Article, on the activities of the preceding calendar year.

(b) (1) The report shall:

(i) include any changes to the sentencing guidelines made during the preceding year;

(ii) review judicial compliance with the sentencing guidelines, including compliance by crime and by judicial circuit;

(III) FOR EACH CASE INVOLVING A CRIME OF VIOLENCE, AS DEFINED IN § 14–101 OF THE CRIMINAL LAW ARTICLE, IDENTIFY:

1. THE CRIME OF WHICH THE DEFENDANT WAS CONVICTED;

2. THE SENTENCE IMPOSED;

3. THE APPLICABLE SENTENCING GUIDELINES RANGE;

4. THE DISPOSITION OF THE CASE, AS INDICATED ON THE SENTENCING GUIDELINES WORKSHEET;

5. FOR CONVICTIONS IN WHICH A PORTION OF THE SENTENCE IS SUSPENDED, THE AMOUNT OF TIME SUSPENDED AND THE PERCENTAGE OF THE SENTENCE SUSPENDED;

6. FOR SENTENCING EVENTS THAT RESULTED IN A DEPARTURE FROM THE SENTENCING GUIDELINES, THE DEPARTURE REASON CITED;

7. THE COURT AND JUDICIAL CIRCUIT WITH JURISDICTION OVER THE CASE; AND

8. THE SENTENCING JUDGE;

[(iii)] (IV) review reductions or increases in original sentences that have occurred because of reconsiderations of sentences imposed under § 14–101 of the Criminal Law Article; and

[(iv)] (V) categorize information on the number of reconsiderations of sentences by crimes as listed in § 14–101(a) of the Criminal Law Article and by judicial circuit.

(2) The Commission shall consider a sentence to a corrections options program to be within the sentencing guidelines if the sentence falls within a corrections options zone shown on the matrix.

6–215.

THE COMMISSION SHALL INCLUDE APPROPRIATE ENTRY LOCATIONS ON A SENTENCING GUIDELINES WORKSHEET FOR A COURT TO REPORT THE INFORMATION REQUIRED TO BE IDENTIFIED UNDER § 6–209(B)(1)(III) OF THIS SUBTITLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a yea and nay vote supported by three–fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.