

SENATE BILL 392

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~~EMERGENCY BILL~~

2lr0117
CF HB 412

By: **The President (By Request – Administration) and Senators Bailey, Carozza, Cassilly, Corderman, Eckardt, Edwards, Elfreth, Ferguson, Gallion, Hayes, Hershey, Hester, Hough, Jennings, Ready, Salling, Simonaire, and West**

Introduced and read first time: January 24, 2022

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 23, 2022

CHAPTER _____

1 AN ACT concerning

2 **State Commission on Criminal Sentencing Policy – ~~Plea Agreements and Annual~~**
3 **Report and Data Dashboard**
4 **(The Judicial Transparency Act of 2022)**

5 FOR the purpose of ~~providing that a sentence imposed under a plea agreement may not be~~
6 ~~considered to be compliant with certain sentencing guidelines unless the sentence~~
7 ~~falls within a certain range~~; requiring a certain annual report by the State
8 Commission on Criminal Sentencing Policy to identify certain information for crimes
9 of violence; requiring the Commission to include certain information in a data
10 dashboard on its public website; and generally relating to the State Commission on
11 Criminal Sentencing Policy.

12 BY repealing and reenacting, without amendments,
13 Article – Criminal Law
14 Section 14–101(a)
15 Annotated Code of Maryland
16 (2021 Replacement Volume and 2021 Supplement)

17 BY repealing and reenacting, without amendments,
18 Article – Criminal Procedure
19 Section 6–201
20 Annotated Code of Maryland
21 (2018 Replacement Volume and 2021 Supplement)

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 BY repealing and reenacting, with amendments,
2 Article – Criminal Procedure
3 Section ~~6–208 and~~ 6–209
4 Annotated Code of Maryland
5 (2018 Replacement Volume and 2021 Supplement)

6 ~~BY adding to~~
7 ~~Article – Criminal Procedure~~
8 ~~Section 6–215~~
9 ~~Annotated Code of Maryland~~
10 ~~(2018 Replacement Volume and 2021 Supplement)~~

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

13 **Article – Criminal Law**

14 14–101.

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

16 (1) abduction;

17 (2) arson in the first degree;

18 (3) kidnapping;

19 (4) manslaughter, except involuntary manslaughter;

20 (5) mayhem;

21 (6) maiming, as previously proscribed under former Article 27, §§ 385 and
22 386 of the Code;

23 (7) murder;

24 (8) rape;

25 (9) robbery under § 3–402 or § 3–403 of this article;

26 (10) carjacking;

27 (11) armed carjacking;

28 (12) sexual offense in the first degree;

1 (13) sexual offense in the second degree;

2 (14) use of a firearm in the commission of a felony except possession with
3 intent to distribute a controlled dangerous substance under § 5-602(2) of this article, or
4 other crime of violence;

5 (15) child abuse in the first degree under § 3-601 of this article;

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

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

9 (ii) the offense involved:

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

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

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

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

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

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

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

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

21 (21) assault in the first degree;

22 (22) assault with intent to murder;

23 (23) assault with intent to rape;

24 (24) assault with intent to rob;

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

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

27 **Article – Criminal Procedure**

1 6-201.

2 In this part, "Commission" means the State Commission on Criminal Sentencing
3 Policy.

4 ~~6-208.~~

5 ~~(a) (1) The Commission shall adopt sentencing guidelines that the~~
6 ~~Commission may change.~~

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

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

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

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

14 ~~(3) a list of aggravating and mitigating circumstances.~~

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

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

20 6-209.

21 (a) The Commission shall review annually sentencing policy and practice and, on
22 or before January 31 of each year, report to the General Assembly, in accordance with §
23 2-1257 of the State Government Article, on the activities of the preceding calendar year.

24 (b) (1) The report shall:

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

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

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

1 ~~1. THE CRIME OF WHICH THE DEFENDANT WAS~~
2 ~~CONVICTED;~~

3 ~~2. THE SENTENCE IMPOSED;~~

4 ~~3. THE APPLICABLE SENTENCING GUIDELINES RANGE;~~

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

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

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

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

14 ~~8. THE SENTENCING JUDGE;~~

15 **(III) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION:**

16 **1. FOR SENTENCES INVOLVING A CRIME OF VIOLENCE,**
17 **AS DEFINED IN § 14-101 OF THE CRIMINAL LAW ARTICLE, INCLUDE INFORMATION**
18 **DISAGGREGATED BY COUNTY ON:**

19 **A. THE NUMBER AND PERCENTAGE OF SENTENCING**
20 **EVENTS IN EACH DISPOSITION CATEGORY, AS INDICATED ON THE SENTENCING**
21 **GUIDELINES WORKSHEET;**

22 **B. THE NUMBER AND PERCENTAGE OF SENTENCING**
23 **EVENTS THAT RESULTED IN A DEPARTURE FROM THE SENTENCING GUIDELINES;**
24 **AND**

25 **C. FOR SENTENCING EVENTS THAT RESULTED IN A**
26 **DEPARTURE FROM THE SENTENCING GUIDELINES, THE DEPARTURE REASONS**
27 **CITED AND THE NUMBER AND PERCENTAGE OF EVENTS IN WHICH EACH REASON WAS**
28 **CITED; AND**

1 **2. FOR SENTENCING EVENTS INVOLVING A CRIME OF**
 2 **VIOLENCE, AS DEFINED IN § 14-101 OF THE CRIMINAL LAW ARTICLE, REPORT**
 3 **DISAGGREGATED BY COUNTY AND CRIME ON:**

4 **A. THE AVERAGE TOTAL SENTENCE;**

5 **B. THE AVERAGE NONSUSPENDED SENTENCE; AND**

6 **C. FOR SENTENCES IN WHICH A PORTION OF THE**
 7 **SENTENCE WAS SUSPENDED, THE AVERAGE PERCENTAGE OF THE TOTAL SENTENCE**
 8 **SUSPENDED;**

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

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

15 (2) **THE COMMISSION SHALL REPORT INFORMATION REQUIRED**
 16 **UNDER PARAGRAPH (1)(III) OF THIS SUBSECTION BY CIRCUIT FOR THE 1ST, 2ND,**
 17 **AND 4TH JUDICIAL CIRCUITS.**

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

21 (4) **THE COMMISSION SHALL CONSPICUOUSLY POST THE**
 22 **INFORMATION REQUIRED TO BE INCLUDED IN THE REPORT UNDER PARAGRAPH**
 23 **(1)(III) OF THIS SUBSECTION IN A DATA DASHBOARD ON ITS PUBLIC WEBSITE.**

24 ~~6-215.~~

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

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

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2022.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.