

MARYLAND JUDICIAL CONFERENCE
GOVERNMENT RELATIONS AND PUBLIC AFFAIRS

Hon. Mary Ellen Barbera
Chief Judge

187 Harry S. Truman Parkway
Annapolis, MD 21401

MEMORANDUM

TO: House Judiciary Committee
FROM: Legislative Committee
Suzanne D. Pelz, Esq.
410-260-1523
RE: House Bill 354
Criminal Procedure – Probation before Judgment – Facts Justifying
a Finding of Guilt and Suspension of Sentence
DATE: January 13, 2021
(2/23)
POSITION: Oppose

The Maryland Judiciary opposes House Bill 354. This legislation authorizes the court to stay the entering of judgment, defer further proceedings, and place a defendant on probation subject to reasonable conditions if the court finds facts justifying a finding of guilt. This legislation authorizes the court as a condition of probation to order a person to a term of custodial confinement or imprisonment and may suspend a portion or all of the sentence.

The amendments to Criminal Procedure §6-220(b)(1) of the bill are confusing and seem inconsistent with the requirements of Maryland Rule 4-242 which requires a defendant to plead not guilty, guilty or nolo contendere. The court is not authorized to proceed to disposition without taking a plea authorized by the rules.

It is also unclear how a court would “find facts justifying a finding of guilt” and how such a finding would fit into jurisprudential norms and safeguards.

cc. Hon. Wanika Fisher
Judicial Council
Legislative Committee
Kelley O’Connor