

HOUSE BILL 424

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CF 3lr2201

By: **Delegates McDonough, Dwyer, Glass, Impallaria, McComas, Norman, and
Stocksdale**

Introduced and read first time: January 28, 2013

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – Crimes of Violence Involving Firearms – Diminution**
3 **Credits, Parole, and Plea Agreements**

4 FOR the purpose of prohibiting the earning of diminution credits to reduce the term of
5 confinement of an inmate who is serving a sentence for a certain crime of
6 violence involving a firearm in a State or local correctional facility; eliminating
7 parole eligibility for a person who is serving a term of confinement for a certain
8 crime of violence involving a firearm; providing that this Act does not restrict a
9 certain authority of the Governor to pardon or remit a certain sentence;
10 prohibiting a person who has been convicted of a certain crime of violence
11 involving a firearm from entering into a plea agreement; providing for the
12 construction of certain provisions of this Act; providing for the application of
13 this Act; and generally relating to crimes of violence involving firearms.

14 BY repealing and reenacting, with amendments,
15 Article – Correctional Services
16 Section 3–702, 7–301, and 11–502
17 Annotated Code of Maryland
18 (2008 Replacement Volume and 2012 Supplement)

19 BY adding to
20 Article – Criminal Procedure
21 Section 6–234
22 Annotated Code of Maryland
23 (2008 Replacement Volume and 2012 Supplement)

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

26 **Article – Correctional Services**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 3-702.

2 (a) Subject to subsections (b) [and], (c), AND (D) of this section, § 3-711 of
3 this subtitle, and Title 7, Subtitle 5 of this article, an inmate committed to the custody
4 of the Commissioner is entitled to a diminution of the inmate's term of confinement as
5 provided under this subtitle.

6 (b) An inmate who is serving a sentence for a violation of § 3-303, § 3-304, §
7 3-305, or § 3-306 of the Criminal Law Article involving a victim who is a child under
8 the age of 16 years is not entitled to a diminution of the inmate's term of confinement
9 as provided under this subtitle.

10 (c) An inmate who is serving a sentence for a violation of § 3-307 of the
11 Criminal Law Article involving a victim who is a child under the age of 16 years is not
12 entitled to a diminution of the inmate's term of confinement as provided under this
13 subtitle, if the inmate was previously convicted of a violation of § 3-307 of the
14 Criminal Law Article involving a victim who is a child under the age of 16 years.

15 **(D) AN INMATE WHO IS SERVING A SENTENCE FOR A CRIME OF**
16 **VIOLENCE, AS DEFINED IN § 14-101 OF THE CRIMINAL LAW ARTICLE,**
17 **INVOLVING A FIREARM IS NOT ENTITLED TO A DIMINUTION OF THE INMATE'S**
18 **TERM OF CONFINEMENT AS PROVIDED UNDER THIS SUBTITLE.**

19 7-301.

20 (a) (1) Except as otherwise provided in this section, the Commission shall
21 request that the Division of Parole and Probation make an investigation for inmates in
22 a local correctional facility and the Division of Correction make an investigation for
23 inmates in a State correctional facility that will enable the Commission to determine
24 the advisability of granting parole to an inmate who:

25 (i) has been sentenced under the laws of the State to serve a
26 term of 6 months or more in a correctional facility; and

27 (ii) has served in confinement one-fourth of the inmate's
28 aggregate sentence.

29 (2) Except as provided in paragraph (3) of this subsection, or as
30 otherwise provided by law or in a predetermined parole release agreement, an inmate
31 is not eligible for parole until the inmate has served in confinement one-fourth of the
32 inmate's aggregate sentence.

33 (3) An inmate may be released on parole at any time in order to
34 undergo drug or alcohol treatment, mental health treatment, or to participate in a
35 residential program of treatment in the best interest of an inmate's expected or
36 newborn child if the inmate:

1 (i) is not serving a sentence for a crime of violence, as defined
2 in § 14–101 of the Criminal Law Article;

3 (ii) is not serving a sentence for a violation of Title 3, Subtitle 6,
4 § 5–608(d), § 5–609(d), § 5–612, § 5–613, § 5–614, § 5–621, § 5–622, or § 5–628 of the
5 Criminal Law Article; and

6 (iii) has been determined to be amenable to treatment.

7 (4) The Division of Parole and Probation shall complete and submit to
8 the Commission each investigation of an inmate in a local correctional facility required
9 under paragraph (1) of this subsection within 60 days of commitment.

10 (b) Except as provided in subsection (c) of this section, if an inmate has been
11 sentenced to a term of imprisonment during which the inmate is eligible for parole and
12 a term of imprisonment during which the inmate is not eligible for parole, the inmate
13 is not eligible for parole consideration under subsection (a) of this section until the
14 inmate has served the greater of:

15 (1) one-fourth of the inmate's aggregate sentence; or

16 (2) a period equal to the term during which the inmate is not eligible
17 for parole.

18 (c) (1) (i) Except as provided in subparagraph (ii) of this paragraph,
19 an inmate who has been sentenced to the Division of Correction after being convicted
20 of a violent crime committed on or after October 1, 1994, is not eligible for parole until
21 the inmate has served the greater of:

22 1. one-half of the inmate's aggregate sentence for
23 violent crimes; or

24 2. one-fourth of the inmate's total aggregate sentence.

25 (ii) An inmate who has been sentenced to the Division of
26 Correction after being convicted of a violent crime committed on or after October 1,
27 1994, and who has been sentenced to more than one term of imprisonment, including a
28 term during which the inmate is eligible for parole and a term during which the
29 inmate is not eligible for parole, is not eligible for parole until the inmate has served
30 the greater of:

31 1. one-half of the inmate's aggregate sentence for
32 violent crimes;

33 2. one-fourth of the inmate's total aggregate sentence;
34 or

1 3. a period equal to the term during which the inmate is
2 not eligible for parole.

3 (2) An inmate who is serving a term of imprisonment for a violent
4 crime committed on or after October 1, 1994, shall receive an administrative review of
5 the inmate's progress in the correctional facility after the inmate has served the
6 greater of:

7 (i) one-fourth of the inmate's aggregate sentence; or

8 (ii) if the inmate is serving a term of imprisonment that
9 includes a mandatory term during which the inmate is not eligible for parole, a period
10 equal to the term during which the inmate is not eligible for parole.

11 **(D) (1) AN INMATE IS NOT ELIGIBLE FOR PAROLE CONSIDERATION**
12 **AND MAY NOT BE GRANTED PAROLE AT ANY TIME DURING THE INMATE'S**
13 **SENTENCE IF THE INMATE IS SERVING A TERM OF IMPRISONMENT FOR A CRIME**
14 **OF VIOLENCE, AS DEFINED IN § 14-101 OF THE CRIMINAL LAW ARTICLE,**
15 **INVOLVING A FIREARM.**

16 **(2) THIS SUBSECTION DOES NOT RESTRICT THE AUTHORITY OF**
17 **THE GOVERNOR TO PARDON OR REMIT ANY PART OF A SENTENCE UNDER §**
18 **7-601 OF THIS TITLE.**

19 **[(d)] (E) (1)** Except as provided in paragraphs (2) and (3) of this
20 subsection, an inmate who has been sentenced to life imprisonment is not eligible for
21 parole consideration until the inmate has served 15 years or the equivalent of 15 years
22 considering the allowances for diminution of the inmate's term of confinement under §
23 6-218 of the Criminal Procedure Article and Title 3, Subtitle 7 of this article.

24 (2) An inmate who has been sentenced to life imprisonment as a result
25 of a proceeding under § 2-303 or § 2-304 of the Criminal Law Article is not eligible for
26 parole consideration until the inmate has served 25 years or the equivalent of 25 years
27 considering the allowances for diminution of the inmate's term of confinement under §
28 6-218 of the Criminal Procedure Article and Title 3, Subtitle 7 of this article.

29 (3) (i) If an inmate has been sentenced to imprisonment for life
30 without the possibility of parole under § 2-203 or § 2-304 of the Criminal Law Article,
31 the inmate is not eligible for parole consideration and may not be granted parole at
32 any time during the inmate's sentence.

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

1 (4) Subject to paragraph (5) of this subsection, if eligible for parole
2 under this subsection, an inmate serving a term of life imprisonment may only be
3 paroled with the approval of the Governor.

4 (5) (i) If the Commission decides to grant parole to an inmate
5 sentenced to life imprisonment who has served 25 years without application of
6 diminution of confinement credits, the decision shall be transmitted to the Governor.

7 (ii) The Governor may disapprove the decision by written
8 transmittal to the Commission.

9 (iii) If the Governor does not disapprove the decision within 180
10 days after receipt, the decision becomes effective.

11 11-502.

12 (a) Except as provided in subsections (b) [and], (c), AND (D) of this section,
13 an inmate who has been sentenced to a term of imprisonment shall be allowed
14 deductions from the inmate's term of confinement as provided under this subtitle for
15 any period of presentence or postsentence confinement in a local correctional facility.

16 (b) (1) An inmate who is serving a sentence for a violation of § 3-303, §
17 3-304, § 3-305, or § 3-306 of the Criminal Law Article involving a victim who is a
18 child under the age of 16 years may not be allowed deductions from the inmate's term
19 of confinement as provided under this subtitle for any period of presentence or
20 postsentence confinement in a local correctional facility.

21 (2) This subsection may not be construed to require an inmate to serve
22 a longer sentence of confinement than is authorized by the statute under which the
23 inmate was convicted.

24 (c) (1) An inmate who is serving a sentence for a violation of § 3-307 of
25 the Criminal Law Article involving a victim who is a child under the age of 16 years,
26 who has previously been convicted of violating § 3-307 of the Criminal Law Article
27 involving a victim who is a child under the age of 16 years, may not be allowed
28 deductions from the inmate's term of confinement as provided under this subtitle for
29 any period of presentence or postsentence confinement in a local correctional facility.

30 (2) This subsection may not be construed to require an inmate to serve
31 a longer sentence of confinement than is authorized by the statute under which the
32 inmate was convicted.

33 **(D) (1) AN INMATE WHO IS SERVING A SENTENCE FOR A CRIME OF**
34 **VIOLENCE, AS DEFINED IN § 14-101 OF THE CRIMINAL LAW ARTICLE,**
35 **INVOLVING A FIREARM MAY NOT BE ALLOWED DEDUCTIONS FROM THE**
36 **INMATE'S TERM OF CONFINEMENT AS PROVIDED UNDER THIS SUBTITLE FOR**

1 ANY PERIOD OF PRESENTENCE OR POSTSENTENCE CONFINEMENT IN A LOCAL
2 CORRECTIONAL FACILITY.

3 (2) THIS SUBSECTION MAY NOT BE CONSTRUED TO REQUIRE AN
4 INMATE TO SERVE A LONGER SENTENCE OF CONFINEMENT THAN IS
5 AUTHORIZED BY THE STATUTE UNDER WHICH THE INMATE WAS CONVICTED.

6 **Article – Criminal Procedure**

7 **6–234.**

8 A PERSON WHO HAS BEEN CONVICTED OF A CRIME OF VIOLENCE, AS
9 DEFINED IN § 14–101 OF THE CRIMINAL LAW ARTICLE, INVOLVING A FIREARM
10 MAY NOT ENTER INTO A PLEA AGREEMENT.

11 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
12 construed to apply only prospectively and may not be applied or interpreted to have
13 any effect on or application to any offense committed before the effective date of this
14 Act.

15 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
16 October 1, 2013.