

# SENATE BILL 865

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CF 3lr2046

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By: **Senator Zirkin**

Introduced and read first time: February 7, 2013

Assigned to: Rules

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## A BILL ENTITLED

1 AN ACT concerning

2 **Correctional Services – Good Conduct Credits – Firearm Related Crime**

3 FOR the purpose of providing that an inmate who is serving a sentence in a State or  
4 local correctional facility for a second or subsequent conviction of a certain  
5 firearm related crime is not entitled to a certain deduction from the inmate's  
6 term of confinement; requiring the court, on request of the State's Attorney, to  
7 make a certain finding as to whether a crime for which a defendant is convicted  
8 or receives a probation before judgment disposition is a firearm related crime;  
9 establishing that the State has the burden of proving by a preponderance of the  
10 evidence that the crime is a firearm related crime; requiring a finding by the  
11 court that a crime is a firearm related crime to become part of the court record  
12 for certain purposes; expanding the list of events that are required to be  
13 reported to the Criminal Justice Information System Central Repository to  
14 include a finding by a court that a defendant has been convicted of or received a  
15 probation before judgment disposition for a firearm related crime; defining  
16 certain terms; providing for the application of this Act; and generally relating to  
17 good conduct credits.

18 BY repealing and reenacting, with amendments,  
19 Article – Correctional Services  
20 Section 3–704 and 11–503  
21 Annotated Code of Maryland  
22 (2008 Replacement Volume and 2012 Supplement)

23 BY adding to  
24 Article – Criminal Procedure  
25 Section 6–234  
26 Annotated Code of Maryland  
27 (2008 Replacement Volume and 2012 Supplement)

28 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.



1 Article – Criminal Procedure  
2 Section 10–215  
3 Annotated Code of Maryland  
4 (2008 Replacement Volume and 2012 Supplement)

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

7 **Article – Correctional Services**

8 3–704.

9 (a) **[An] EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, AN**  
10 inmate shall be allowed a deduction in advance from the inmate’s term of confinement.

11 **(B) AN INMATE WHO IS SERVING A SENTENCE FOR A SECOND OR**  
12 **SUBSEQUENT CONVICTION OF A FIREARM RELATED CRIME, AS DEFINED IN §**  
13 **6–234 OF THE CRIMINAL PROCEDURE ARTICLE, IS NOT ENTITLED TO A**  
14 **DEDUCTION UNDER THIS SECTION.**

15 **[(b)] (C)** (1) The deduction allowed under subsection (a) of this section  
16 shall be calculated:

17 (i) from the first day of commitment to the custody of the  
18 Commissioner through the last day of the inmate’s term of confinement;

19 (ii) except as provided in paragraph (2) of this subsection, at the  
20 rate of 10 days for each calendar month; and

21 (iii) on a prorated basis for any portion of a calendar month.

22 (2) If an inmate’s term of confinement includes a consecutive or  
23 concurrent sentence for a crime of violence as defined in § 14–101 of the Criminal Law  
24 Article or a crime of manufacturing, distributing, dispensing, or possessing a  
25 controlled dangerous substance in violation of §§ 5–602 through 5–609, § 5–612, or §  
26 5–613 of the Criminal Law Article, the deduction described in subsection (a) of this  
27 section shall be calculated at the rate of 5 days for each calendar month.

28 **[(c)] (D)** A deduction under this section may not be allowed for a period  
29 during which an inmate does not receive credit for service of the inmate’s term of  
30 confinement, including a period:

31 (1) during which the inmate’s sentence is stayed;

32 (2) during which the inmate is not in the custody of the Commissioner  
33 because of escape; or

1 (3) for which the Maryland Parole Commission has declined to grant  
2 credit after revocation of parole or mandatory supervision.

3 11-503.

4 (a) **[An] EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, AN**  
5 inmate shall be allowed a deduction of 5 days from the inmate's term of confinement  
6 for each calendar month of presentence confinement during which the inmate:

7 (1) does not violate the rules of discipline; and

8 (2) labors with diligence and fidelity when the opportunity for labor is  
9 available.

10 **(B) AN INMATE WHO IS SERVING A SENTENCE FOR A SECOND OR**  
11 **SUBSEQUENT CONVICTION OF A FIREARM RELATED CRIME, AS DEFINED IN §**  
12 **6-234 OF THE CRIMINAL PROCEDURE ARTICLE, IS NOT ENTITLED TO A**  
13 **DEDUCTION UNDER THIS SECTION.**

14 **[(b)] (C)** The deductions described in this section shall:

15 (1) begin on the day the inmate arrives at the local correctional  
16 facility;

17 (2) be made on a prorated basis for any portion of a calendar month of  
18 presentence confinement during which the inmate is committed to the local  
19 correctional facility; and

20 (3) cease on the day the inmate is:

21 (i) sentenced to a local correctional facility;

22 (ii) committed to the custody of the Commissioner of Correction;

23 or

24 (iii) released.

25 **Article – Criminal Procedure**

26 **6-234.**

27 **(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE**  
28 **MEANINGS INDICATED.**

1           **(2) “FIREARM” HAS THE MEANING STATED IN § 5-101 OF THE**  
2 **PUBLIC SAFETY ARTICLE.**

3           **(3) “FIREARM RELATED CRIME” MEANS A CRIME COMMITTED BY**  
4 **A DEFENDANT WHILE DISPLAYING, BRANDISHING, OR USING A FIREARM.**

5           **(B) (1) IF A DEFENDANT IS CONVICTED OF OR RECEIVES A**  
6 **PROBATION BEFORE JUDGMENT DISPOSITION FOR A CRIME, ON REQUEST OF**  
7 **THE STATE’S ATTORNEY, THE COURT SHALL MAKE A FINDING OF FACT, BASED**  
8 **ON EVIDENCE PRODUCED AT TRIAL, AS TO WHETHER THE CRIME IS A FIREARM**  
9 **RELATED CRIME.**

10           **(2) THE STATE HAS THE BURDEN OF PROVING BY A**  
11 **PREPONDERANCE OF THE EVIDENCE THAT THE CRIME IS A FIREARM RELATED**  
12 **CRIME.**

13           **(C) IF THE COURT FINDS THAT THE CRIME IS A FIREARM RELATED**  
14 **CRIME UNDER SUBSECTION (B) OF THIS SECTION, THAT FINDING SHALL**  
15 **BECOME PART OF THE COURT RECORD FOR PURPOSES OF REPORTING TO THE**  
16 **CRIMINAL JUSTICE INFORMATION SYSTEM CENTRAL REPOSITORY UNDER §**  
17 **10-215 OF THIS ARTICLE.**

18 10-215.

19           (a) The following events are reportable events under this subtitle that must  
20 be reported to the Central Repository in accordance with § 10-214 of this subtitle:

21           (1) the issuance or withdrawal of an arrest warrant;

22           (2) an arrest;

23           (3) the filing of a charging document;

24           (4) a release pending trial or an appeal;

25           (5) a commitment to an institution of pretrial detention;

26           (6) the dismissal of an indictment or criminal information;

27           (7) a nolle prosequi;

28           (8) the marking of a charge “stet” on the docket;

- 1                   (9)    an acquittal, conviction, verdict of not criminally responsible, or  
2 any other disposition of a case at or following trial, including a finding of probation  
3 before judgment;
- 4                   (10) the imposition of a sentence;
- 5                   (11) a commitment to a State correctional facility or local correctional  
6 facility;
- 7                   (12) a commitment to the Department of Health and Mental Hygiene  
8 under § 3–105 or § 3–111 of this article as incompetent to stand trial or not criminally  
9 responsible;
- 10                  (13) a release from detention or confinement;
- 11                  (14) a conditional release, revocation of conditional release, or discharge  
12 of a person committed to the Department of Health and Mental Hygiene under §  
13 3–105 or § 3–111 of this article as incompetent to stand trial or not criminally  
14 responsible;
- 15                  (15) an escape from confinement or commitment;
- 16                  (16) a pardon, reprieve, commutation of a sentence, or other change in a  
17 sentence, including a change in a sentence that a court orders;
- 18                  (17) an entry of an appeal to an appellate court;
- 19                  (18) a judgment of an appellate court;
- 20                  (19) an order of a court in a collateral proceeding that affects a person’s  
21 conviction, sentence, or confinement;
- 22                  (20) an adjudication of a child as delinquent:
- 23                               (i)    if the child is at least 14 years old, for an act described in §  
24 3–8A–03(d)(1) of the Courts Article; or
- 25                               (ii)   if the child is at least 16 years old, for an act described in §  
26 3–8A–03(d)(4) or (5) of the Courts Article;
- 27                  (21) the issuance or withdrawal of a writ of attachment by a juvenile  
28 court;
- 29                  (22) the initial registration of a person under Title 11, Subtitle 7 of this  
30 article;

1           (23) the imposition of lifetime sexual offender supervision under Title  
2 11, Subtitle 7 of this article;

3           (24) a finding that a defendant has been convicted of or received a  
4 probation before judgment disposition for a domestically related crime under § 6-233  
5 of this article; [and]

6           **(25) A FINDING THAT A DEFENDANT HAS BEEN CONVICTED OF OR**  
7 **RECEIVED A PROBATION BEFORE JUDGMENT DISPOSITION FOR A FIREARM**  
8 **RELATED CRIME UNDER § 6-234 OF THIS ARTICLE; AND**

9           ~~[(25)]~~ **(26)** any other event arising out of or occurring during the course  
10 of a criminal proceeding that the Secretary by regulation or the Court of Appeals by  
11 rule makes a reportable event.

12           (b) To avoid duplication in the reporting of criminal history record  
13 information, the Secretary by regulation and the Court of Appeals by rule may  
14 determine those reportable events described under subsection (a) of this section to be  
15 reported by each criminal justice unit to the Central Repository.

16           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be  
17 construed to apply only prospectively and may not be applied or interpreted to have  
18 any effect on or application to any crime committed before the effective date of this  
19 Act.

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