

HOUSE BILL 1323

E2

6lr2395

By: **Delegates Folden, Afzali, Anderson, Anderton, Arentz, Atterbeary, Bromwell, Buckel, Carozza, Cassilly, Ciliberti, Davis, Ghrist, Hornberger, Jackson, Jacobs, Kittleman, Knotts, Lisanti, McComas, McConkey, Metzgar, W. Miller, Moon, Morales, Otto, S. Robinson, Rosenberg, Sample–Hughes, Simonaire, Smith, Sydnor, Szeliga, Vogt, B. Wilson, and C. Wilson**

Introduced and read first time: February 12, 2016

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – Sentencing Review – Juvenile Offenders Sentenced as**
3 **Adults**

4 FOR the purpose of altering the number of applications for sentence review that a certain
5 person may file under certain circumstances; authorizing a certain person to file a
6 certain application for sentence review after having served a certain period of
7 incarceration; requiring a certain review panel to hold a certain hearing for each
8 application for review of sentence filed by a certain person; requiring a certain review
9 panel to consider certain information; authorizing a certain review panel to alter a
10 certain sentence under certain circumstances; prohibiting a certain review panel
11 from altering a certain sentence under certain circumstances; authorizing a certain
12 review panel to impose certain conditions under certain circumstances; prohibiting
13 the filing of a certain application for sentence review within a certain time period
14 under certain circumstances; and generally relating to sentence review for juvenile
15 offenders sentenced as adults.

16 BY repealing and reenacting, with amendments,
17 Article – Criminal Procedure
18 Section 8–102 and 8–105
19 Annotated Code of Maryland
20 (2008 Replacement Volume and 2015 Supplement)

21 BY adding to
22 Article – Criminal Procedure
23 Section 8–102.1
24 Annotated Code of Maryland
25 (2008 Replacement Volume and 2015 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 **Article – Criminal Procedure**

4 8–102.

5 (a) Except as provided in subsection (b) of this section, a person convicted of a
6 crime by a circuit court and sentenced to serve a sentence that exceeds 2 years in a
7 correctional facility is entitled to a single sentence review by a review panel.

8 (b) **[A] EXCEPT AS PROVIDED IN § 8–102.1 OF THIS SUBTITLE, A person is not**
9 entitled:

10 (1) to a sentence review if the sentence was imposed by more than one
11 circuit court judge; or

12 (2) to a review of an order requiring a suspended part of a sentence to be
13 served if:

14 (i) the sentence originally was wholly or partly suspended;

15 (ii) the sentence was reviewed; and

16 (iii) the suspended sentence or suspended part of that sentence later
17 was required to be served.

18 (c) For purposes of this subtitle, a sentence that exceeds 2 years is a sentence in
19 which the total period of the sentence and any unserved time of a prior or simultaneous
20 sentence exceeds 2 years, including:

21 (1) a sentence imposed by a circuit court;

22 (2) a requirement by a circuit court that all or part of a suspended sentence
23 be served; and

24 (3) a prior or simultaneous sentence, suspended or not suspended, that has
25 been imposed by a court or other authority of the State or of another jurisdiction.

26 **8–102.1.**

27 **(A) A PERSON WHO HAS BEEN SENTENCED TO AN AGGREGATE TERM OF**
28 **INCARCERATION OF 20 YEARS OR MORE FOR AN OFFENSE THAT WAS COMMITTED**
29 **BEFORE THE PERSON REACHED THE AGE OF 18 YEARS MAY FILE AN APPLICATION**
30 **FOR SENTENCING REVIEW AFTER HAVING SERVED 15 YEARS.**

1 **(B) FOR EACH APPLICATION FILED UNDER THIS SECTION, THE REVIEW**
2 **PANEL SHALL:**

3 **(1) HOLD A HEARING; AND**

4 **(2) CONSIDER, ON THE RECORD, MITIGATING FACTORS OF THE**
5 **APPLICANT, INCLUDING:**

6 **(I) SCIENTIFIC AND PSYCHOLOGICAL EVIDENCE REGARDING**
7 **ADOLESCENT BRAIN DEVELOPMENT;**

8 **(II) AGE AND MATURITY AT THE TIME OF THE OFFENSE;**

9 **(III) FAMILY AND COMMUNITY ENVIRONMENT;**

10 **(IV) GROWTH AND MATURITY SINCE INCARCERATION;**

11 **(V) CAPACITY FOR AND EFFORTS MADE TOWARD**
12 **REHABILITATION; AND**

13 **(VI) EVIDENCE OF ACCEPTANCE OF ACCOUNTABILITY FOR THE**
14 **CRIME.**

15 **(C) THE REVIEW PANEL, BY MAJORITY VOTE, MAY:**

16 **(1) DECIDE THAT THE SENTENCE UNDER REVIEW SHOULD REMAIN**
17 **UNCHANGED; OR**

18 **(2) ORDER A DIFFERENT SENTENCE TO BE IMPOSED OR SERVED,**
19 **INCLUDING:**

20 **(I) A DECREASED SENTENCE;**

21 **(II) A SUSPENDED SENTENCE TO BE SERVED WHOLLY OR**
22 **PARTLY; OR**

23 **(III) A SENTENCE TO BE SUSPENDED WITH OR WITHOUT**
24 **PROBATION.**

25 **(D) THE REVIEW PANEL MAY NOT INCREASE THE SENTENCE UNDER**
26 **REVIEW, INCLUDING IMPOSITION OF A SUSPENDED SENTENCE.**

1 **(E) IN DECIDING TO ORDER A DIFFERENT SENTENCE, THE REVIEW PANEL**
2 **MAY IMPOSE CONDITIONS THAT THE REVIEW PANEL CONSIDERS JUST.**

3 **(F) UNLESS THE STATE CONSENTS TO THE FILING OF AN APPLICATION, A**
4 **PERSON WHO FILES AN APPLICATION FOR A SENTENCE REVIEW UNDER THIS**
5 **SECTION MAY NOT FILE ANOTHER APPLICATION UNTIL AT LEAST 5 YEARS AFTER**
6 **THE REVIEW PANEL HAS RULED ON THE APPLICANT'S MOST RECENT APPLICATION.**

7 8–105.

8 (a) A review panel consists of three or more circuit court judges of the judicial
9 circuit in which the sentencing court is located.

10 (b) Notwithstanding any Maryland Rule, the sentencing judge may not be a
11 member of the review panel, but on request of the sentencing judge, the sentencing judge
12 may sit with the review panel only in an advisory capacity.

13 (c) (1) A review panel shall consider each application for review of a sentence.

14 (2) A review panel may require the Division of Parole and Probation to
15 make investigations, reports, and recommendations.

16 (3) **[A] EXCEPT AS PROVIDED IN § 8–102.1 OF THIS SUBTITLE, A** review
17 panel:

18 (i) with or without a hearing, may decide that the sentence under
19 review should remain unchanged; or

20 (ii) after a hearing, may order a different sentence to be imposed or
21 served, including:

22 1. an increased sentence;

23 2. subject to § 8–107(c) of this subtitle, a decreased sentence;

24 3. a suspended sentence to be served wholly or partly; or

25 4. a sentence to be suspended with or without probation.

26 (4) In deciding to order a different sentence, the review panel may impose
27 conditions that the review panel considers just and that could have been imposed lawfully
28 by the sentencing court when the sentence was imposed.

29 (d) If the review panel orders a different sentence, the review panel shall
30 resentence and notify the defendant in accordance with the order of the panel.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2016.