

HOUSE BILL 1305

E2
HB 424/13 – JUD

6lr2691

By: **Delegate McDonough**

Introduced and read first time: February 12, 2016

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 violence
6 involving a firearm in a State or local correctional facility; eliminating parole
7 eligibility for a person who is serving a term of confinement for a certain crime of
8 violence involving a firearm; providing that this Act does not restrict a certain
9 authority of the Governor to pardon or remit a certain sentence; prohibiting a person
10 who has been convicted of a certain crime of violence involving a firearm from
11 entering into a plea agreement; providing for the construction of certain provisions
12 of this Act; providing for the application of this Act; and generally relating to crimes
13 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 2015 Supplement)

19 BY adding to
20 Article – Criminal Procedure
21 Section 6–234
22 Annotated Code of Maryland
23 (2008 Replacement Volume and 2015 Supplement)

24 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
25 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 this
3 subtitle, and Title 7, Subtitle 5 of this article, an inmate committed to the custody of the
4 Commissioner is entitled to a diminution of the inmate's term of confinement as provided
5 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 the
8 age of 16 years is not entitled to a diminution of the inmate's term of confinement as
9 provided under this subtitle.

10 (c) An inmate who is serving a sentence for a violation of § 3-307 of the Criminal
11 Law Article involving a victim who is a child under the age of 16 years is not entitled to a
12 diminution of the inmate's term of confinement as provided under this subtitle, if the
13 inmate was previously convicted of a violation of § 3-307 of the Criminal Law Article
14 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 VIOLENCE,**
16 **AS DEFINED IN § 14-101 OF THE CRIMINAL LAW ARTICLE, INVOLVING A FIREARM IS**
17 **NOT ENTITLED TO A DIMINUTION OF THE INMATE'S TERM OF CONFINEMENT AS**
18 **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 a
22 local correctional facility and the Division of Correction make an investigation for inmates
23 in a State correctional facility that will enable the Commission to determine the
24 advisability of granting parole to an inmate who:

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

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

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

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

1 (i) is not serving a sentence for a crime of violence, as defined in §
2 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 Criminal
5 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 the
8 Commission each investigation of an inmate in a local correctional facility required under
9 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 a
12 term of imprisonment during which the inmate is not eligible for parole, the inmate is not
13 eligible for parole consideration under subsection (a) of this section until the inmate has
14 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 for
17 parole.

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

22 1. one-half of the inmate's aggregate sentence for violent
23 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 Correction
26 after being convicted of a violent crime committed on or after October 1, 1994, and who has
27 been sentenced to more than one term of imprisonment, including a term during which the
28 inmate is eligible for parole and a term during which the inmate is not eligible for parole,
29 is not eligible for parole until the inmate has served the greater of:

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

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

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

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

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

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

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

12 **(2) THIS SUBSECTION DOES NOT RESTRICT THE AUTHORITY OF THE**
13 **GOVERNOR TO PARDON OR REMIT ANY PART OF A SENTENCE UNDER §**
14 **7-601 OF THIS TITLE.**

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

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

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

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

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

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

4 (ii) The Governor may disapprove the decision by written
5 transmittal to the Commission.

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

8 11-502.

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

13 (b) (1) An inmate who is serving a sentence for a violation of § 3-303, §
14 3-304, § 3-305, or § 3-306 of the Criminal Law Article involving a victim who is a child
15 under the age of 16 years may not be allowed deductions from the inmate's term of
16 confinement as provided under this subtitle for any period of presentence or postsentence
17 confinement in a local correctional facility.

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

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

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

30 (D) (1) **AN INMATE WHO IS SERVING A SENTENCE FOR A CRIME OF**
31 **VIOLENCE, AS DEFINED IN § 14-101 OF THE CRIMINAL LAW ARTICLE, INVOLVING A**
32 **FIREARM MAY NOT BE ALLOWED DEDUCTIONS FROM THE INMATE'S TERM OF**
33 **CONFINEMENT AS PROVIDED UNDER THIS SUBTITLE FOR ANY PERIOD OF**
34 **PRESENTENCE OR POSTSENTENCE CONFINEMENT IN A LOCAL CORRECTIONAL**
35 **FACILITY.**

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

4 **Article – Criminal Procedure**

5 **6–234.**

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

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

12 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
13 October 1, 2016.