

SENATE BILL 272

E1
HB 229/19 – JUD

0lr0146
CF HB 355

By: **The President (By Request – Administration) and Senators Bailey, Carozza, Cassilly, Eckardt, Edwards, Gallion, Hershey, Jennings, Ready, Reilly, Salling, Serafini, Simonaire, and West**
Introduced and read first time: January 20, 2020
Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **State Commission on Criminal Sentencing Policy – Annual Report – Crimes of**
3 **Violence**
4 **(The Judicial Transparency Act of 2020)**

5 FOR the purpose of requiring a certain annual report by the State Commission on Criminal
6 Sentencing Policy to identify certain information for crimes of violence; requiring the
7 Commission to include certain entry locations on a sentencing guidelines worksheet
8 for a court to report certain information; requiring the Governor's Office of Crime
9 Control and Prevention to submit a certain report on certain pleas that contains
10 certain data on or before a certain date; defining a certain term; and generally
11 relating to criminal sentencing reports and information.

12 BY repealing and reenacting, without amendments,
13 Article – Criminal Law
14 Section 14–101(a)
15 Annotated Code of Maryland
16 (2012 Replacement Volume and 2019 Supplement)

17 BY repealing and reenacting, without amendments,
18 Article – Criminal Procedure
19 Section 6–201
20 Annotated Code of Maryland
21 (2018 Replacement Volume and 2019 Supplement)

22 BY repealing and reenacting, with amendments,
23 Article – Criminal Procedure
24 Section 6–209
25 Annotated Code of Maryland
26 (2018 Replacement Volume and 2019 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.



1 BY adding to
2 Article – Criminal Procedure
3 Section 6–215
4 Annotated Code of Maryland
5 (2018 Replacement Volume and 2019 Supplement)

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

8 **Article – Criminal Law**

9 14–101.

10 (a) In this section, “crime of violence” means:

- 11 (1) abduction;
- 12 (2) arson in the first degree;
- 13 (3) kidnapping;
- 14 (4) manslaughter, except involuntary manslaughter;
- 15 (5) mayhem;
- 16 (6) maiming, as previously proscribed under former Article 27, §§ 385 and
17 386 of the Code;
- 18 (7) murder;
- 19 (8) rape;
- 20 (9) robbery under § 3–402 or § 3–403 of this article;
- 21 (10) carjacking;
- 22 (11) armed carjacking;
- 23 (12) sexual offense in the first degree;
- 24 (13) sexual offense in the second degree;
- 25 (14) use of a firearm in the commission of a felony except possession with
26 intent to distribute a controlled dangerous substance under § 5–602(2) of this article, or
27 other crime of violence;

(15) child abuse in the first degree under § 3–601 of this article;

(16) sexual abuse of a minor under § 3–602 of this article if:

(i) the victim is under the age of 13 years and the offender is an adult at the time of the offense; and

(ii) the offense involved:

1. vaginal intercourse, as defined in § 3–301 of this article;

2. a sexual act, as defined in § 3–301 of this article;

3. an act in which a part of the offender’s body penetrates, however slightly, into the victim’s genital opening or anus; or

4. the intentional touching of the victim’s or the offender’s genital, anal, or other intimate area for sexual arousal, gratification, or abuse;

(17) home invasion under § 6–202(b) of this article;

(18) a felony offense under Title 3, Subtitle 11 of this article;

(19) an attempt to commit any of the crimes described in items (1) through (18) of this subsection;

(20) continuing course of conduct with a child under § 3–315 of this article;

(21) assault in the first degree;

(22) assault with intent to murder;

(23) assault with intent to rape;

(24) assault with intent to rob;

(25) assault with intent to commit a sexual offense in the first degree; and

(26) assault with intent to commit a sexual offense in the second degree.

Article – Criminal Procedure

6–201.

In this part, “Commission” means the State Commission on Criminal Sentencing Policy.

6–209.

(a) The Commission shall review annually sentencing policy and practice and, on or before January 31 of each year, report to the General Assembly, in accordance with § 2–1257 of the State Government Article, on the activities of the preceding calendar year.

(b) (1) The report shall:

(i) include any changes to the sentencing guidelines made during the preceding year;

(ii) review judicial compliance with the sentencing guidelines, including compliance by crime and by judicial circuit;

(III) FOR EACH CASE INVOLVING A CRIME OF VIOLENCE AS DEFINED IN § 14–101 OF THE CRIMINAL LAW ARTICLE, IDENTIFY:

1. THE CRIME OF WHICH THE DEFENDANT WAS CONVICTED;

2. THE SENTENCE IMPOSED;

3. THE APPLICABLE SENTENCING GUIDELINES RANGE;

4. THE DISPOSITION OF THE CASE, AS INDICATED ON THE SENTENCING GUIDELINES WORKSHEET;

5. FOR CONVICTIONS IN WHICH A PORTION OF THE SENTENCE IS SUSPENDED, THE AMOUNT OF TIME SUSPENDED AND THE PERCENTAGE OF THE SENTENCE SUSPENDED;

6. FOR SENTENCING EVENTS THAT RESULTED IN A DEPARTURE FROM THE SENTENCING GUIDELINES, THE DEPARTURE REASON CITED;

7. THE COURT AND JUDICIAL CIRCUIT WITH JURISDICTION OVER THE CASE; AND

8. THE SENTENCING JUDGE;

[(iii)] (IV) review reductions or increases in original sentences that have occurred because of reconsiderations of sentences imposed under § 14–101 of the Criminal Law Article; and

[(iv)] (V) categorize information on the number of reconsiderations of sentences by crimes as listed in § 14–101(a) of the Criminal Law Article and by judicial

1 circuit.

2 (2) The Commission shall consider a sentence to a corrections options
3 program to be within the sentencing guidelines if the sentence falls within a corrections
4 options zone shown on the matrix.

5 **6-215.**

6 **THE COMMISSION SHALL INCLUDE APPROPRIATE ENTRY LOCATIONS ON A**
7 **SENTENCING GUIDELINES WORKSHEET FOR A COURT TO REPORT THE**
8 **INFORMATION REQUIRED TO BE IDENTIFIED UNDER § 6-209(B)(1)(III) OF THIS**
9 **SUBTITLE RELATING TO CRIMES OF VIOLENCE.**

10 SECTION 2. AND BE IT FURTHER ENACTED, That:

11 (a) In this section, “ABA plea” means a plea agreement that:

12 (1) a court has approved relating to a particular sentence, disposition, or
13 other judicial action; and

14 (2) is binding on the court under Maryland Rule 4-243(c).

15 (b) (1) The Governor’s Office of Crime Control and Prevention, in consultation
16 with and with assistance from the Maryland Commission on Criminal Sentencing Policy,
17 shall analyze the use of ABA pleas in calendar year 2019 based on information submitted
18 to the Maryland Commission on Criminal Sentencing Policy.

19 (2) (i) On or before December 31, 2020, the Governor’s Office of Crime
20 Control and Prevention shall report to the Governor and, in accordance with § 2-1257 of
21 the State Government Article, the General Assembly on the results of the analysis required
22 under paragraph (1) of this subsection.

23 (ii) The report required under this paragraph shall include data
24 showing:

25 1. the use of ABA pleas by judicial circuit; and

26 2. the percentage of sentences under the ABA pleas that
27 would have been guidelines compliant if the sentence had been imposed under another type
28 of disposition.

29 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
30 October 1, 2020.