

10 AN ACT CONCERNING

20 **Mandatory Minimum Sentencing**

30 FOR the purpose of removing mandatory minimum sentencing for drug offenders.

40 BY repealing and amending
50 Article 27, Crime and Punishments
60 Section 286
70 (1957 Replacement Volume)

80 WHEREAS: Currently drug arrestees are becoming the majority crime being sent to prison; and

90 WHEREAS: Our prisons are already overfull, and have had many serious crimes sentences reduced
100 so as to create more room; and,

110 WHEREAS: Judges currently have almost no discretion to deal with most drug offenses; and,

120 WHEREAS: This takes away many powers from the judges; and,

130 WHEREAS: Our current mandatory minimum drug sentencing is not working, as can be shown by no
140 decrease in drug use, drug crimes, and drug possession.

150 SECTION 1. BE IT ENACTED BY THE MARYLAND STUDENT LEGISLATURE, that
160 the laws of Maryland read as follows:

170 **Article 27 - Crimes and Punishments**

180 § 286 - Unlawful manufacture, distribution, etc.; counterfeiting, etc.; manufacture, possession, etc., of
190 certain equipment for illegal use; keeping common nuisance.

200 (a) Prohibited conduct. -- Except as authorized by this subheading, it is unlawful for any person:

210 (1) To manufacture, distribute, or dispense, or to possess a controlled dangerous substance in
220 sufficient quantity to reasonably indicate under all circumstances an intent to manufacture,
230 distribute, or dispense, a controlled dangerous substance;

240 (2) To create, distribute, or possess with intent to distribute, a counterfeit controlled
dangerous
250 substance;

260 (3) To manufacture, distribute, or possess any punch, die, plate, stone, or any other
equipment
270 which is designed to print, imprint, or reproduce the trademark, trade name, or other identifying
280 mark, imprint, or device of another or any likeness of any of the foregoing upon any drug or
290 container or labeling thereof so as to render the drug a counterfeit controlled dangerous
300 substance;

310 (4) To manufacture, distribute, or possess any machine, equipment, instrument, implement,
320 device, or combination thereof which is adopted for the production of controlled dangerous
330 substances under circumstances which reasonably indicate an intention to use such item or
340 combination thereof to produce, sell, or dispense any controlled dangerous substance in violation

of
350 the provisions of this subheading;

360 (5) To keep or maintain any common nuisance which means any dwelling house, apartment,
370 building, vehicle, vessel, aircraft, or any place whatever which is resorted to by drug abusers for
380 purposes of illegally administering controlled dangerous substances or which is used for the
390 illegal manufacture, distribution, dispensing, storage or concealment of controlled dangerous
400 substances or controlled paraphernalia, as defined in § 287 (d) of this subheading; or

410 (6) To possess, pass, utter, make, or manufacture a false, forged, or altered prescription or
420 prescriptions for a controlled dangerous substance with the intent to distribute the controlled
430 dangerous substance. Information communicated to an authorized prescriber in an effort to obtain
440 a controlled dangerous substance in violation of the provisions of this item shall not be deemed a
450 privileged communication.

460 (b) Penalty. -- Any person who violates any of the provisions of subsection (a) of this section with
470 respect to:

480 (1) A substance classified in Schedules I or II which is a narcotic drug is guilty of a felony
and
490 is subject to imprisonment for not more than 20 years, or a fine of not more than \$25,000, or
both.

500 (2) Phencyclidine, 1-(1-phenylcyclohexyl) piperidine, 1-phenylcyclohexylamine, or
510 1-piperidinocyclohexanecarbonitrile, classified in Schedule II, or n-ethyl-1-phenylcyclohexylamine,
520 1-(1-phenylcyclohexyl)-pyrrolidine, 1-(1-(2-thienyl)-cyclohexyl)-piperidine, lysergic acid
530 diethylamide, or 750 grams or more of 3, 4-methylenedioxyamphetamine (MDMA),
classified
540 in Schedule I, is guilty of a felony and is subject to imprisonment for not more than 20 years, or a
550 fine of not more than \$20,000, or both.

560 (3) Any other controlled dangerous substance classified in Schedule I, II, III, IV, or V shall,
570 upon conviction, be deemed guilty of a felony and sentenced to a term of imprisonment for not
more
580 than 5 years or a fine of not more than \$15,000, or both. Any person who has previously been
590 convicted under this paragraph shall be sentenced to imprisonment ~~for not~~ **MORE**
THAN
600 ~~≥ 15 years. The prison sentence of a person sentenced under this paragraph as a repeat offender may~~
610 ~~not be suspended to less than 2 years, and the person may be paroled during that period only in~~
620 accordance with § 4-305 of the Correctional Services Article.

630 (c) Sentencing.

640 (1) A person who is convicted under subsection (b) (1) or subsection (b) (2) of this section,
or
650 of conspiracy to violate subsection (b) (1) or (b) (2) of this section shall be sentenced to
660 imprisonment for not ~~less~~ **MORE** than ~~10~~ 50 years and subject to a fine not exceeding \$100,000 if
670 the person previously has been convicted:

680 (i) Under subsection (b) (1) or subsection (b) (2) of this section;

690 (ii) Of conspiracy to violate subsection (b) (1) or subsection (b) (2) of this section;
or

700 (iii) Of an offense under the laws of another state, the District of Columbia, or the
710 United States that would be a violation of subsection (b) (1) or subsection (b) (2) of this
720 section if committed in this State.

730 (2) The prison sentence of a person sentenced under subsection (b) (1) or subsection (b) (2) of
740 this section, or of conspiracy to violate subsection (b) (1) or subsection (b) (2) of this section or
any
750 combination of these offenses, as a second offender may ~~not~~ be suspended to less than 10 years,
760 and the person may be paroled during that period only in accordance with § 4-305 of the
770 Correctional Services Article.

780 (3) This subsection does not prevent, prohibit, or make ineligible a convicted defendant from
790 participating in the rehabilitation program under Title 8, Subtitle 5 of the Health-General Article,
800 because of the length of sentence, if imposed under subsection (b) (1) of this section.

810 (d) Additional penalty for one or two previous offenses.

820 (1) A person who is convicted under subsection (b) (1) or subsection (b) (2) of this
830 section or of conspiracy to violate subsection (b) (1) or subsection (b) (2) of this section shall be
840 sentenced to imprisonment for the term allowed by law, but, in any event, not ~~less~~ MORE than
~~25~~
850 50 years and subject to a fine not exceeding \$100,000 if the person previously:

860 (i) Has served at least 1 term of confinement of at least 180 days in a correctional
870 institution as a result of a conviction of a previous violation of this section or § 286A of
880 this article; and

890 (ii) Has been convicted twice, where the convictions do not arise from a single
900 incident:

910 1. Under subsection (b) (1) or subsection (b) (2) of this section;

920 2. Of conspiracy to violate subsection (b) (1) or subsection (b) (2) of this
930 section;

940 3. Of an offense under the laws of another state, the District of Columbia,
950 or the United States that would be a violation of subsection (b) (1) or
960 subsection (b) (2) of this section if committed in this State; or

970 4. Of any combination of these offenses.

980 ~~(2) Neither the sentence required under paragraph (1) of this subsection nor any part of it~~
~~may~~
990 ~~be suspended, and~~ the person may not be eligible for parole except in accordance with § 4-305 of
1000 the Correctional Services Article.

1010 (3) A separate occasion shall be considered one in which the second or succeeding offense is
1020 committed after there has been a charging document filed for the preceding offense.

1030 (e) Additional penalty for three or more previous offenses.

1040 (1) A person who is convicted under subsection (b) (1) or subsection (b) (2) of this section
or
1050 of conspiracy to violate subsection (b) (1) or subsection (b) (2) of this section shall be sentenced to

1060 imprisonment for the term allowed by law, but in any event, not ~~less~~ MORE than ~~40~~ 100 years
and
1070 subject to a fine not exceeding \$100,000 if the person previously has served 3 separate terms of
1080 confinement as a result of 3 separate convictions:

1090 (i) Under subsection (b) (1) or subsection (b) (2) of this section;

1100 (ii) Of conspiracy to violate subsection (b) (1) or subsection (b) (2) of this section;

1110 (iii) Of an offense under the laws of another state, the District of Columbia, or the
1120 United States that would be a violation of subsection (b) (1) or subsection (b) (2) of this
1130 section if committed in this State; or

1140 (iv) Of any combination of these offenses.

1150 (2) ~~Neither the sentence required under paragraph (1) of this subsection nor any part of it may~~
1160 ~~be suspended,~~ and the person may not be eligible for parole except in accordance with section 4-
305
1170 of the Correctional Services Article.

1180 MANDATES: Governor Parris N. Glandening
1190 Lt. Governor Kathleen Kennedy Townsend
1200 Attorney General J. Joseph Curran, Jr.
1210 Senate President Thomas V. "Mike" Miller
1220 Speaker of the House of Delegates Casper R. Taylor, Jr.
1230 Senator Walter M. Baker, Chairman of Judicial Proceedings Committee
1240 Delegate Joseph F. Vallario, Chairman of Judiciary Committee

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