

10 AN ACT CONCERNING

20 **Mandatory Minimum Sentencing**

30 FOR the purpose of removing mandatory minimum sentencing for drug offenders and compensating for the
40 removal of the minimum.

50 BY repealing and amending
60 Article 27, Crime and Punishments
70 Section 286
80 (1957 Replacement Volume)

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

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

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

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

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

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

180 **Article 27 - Crimes and Punishments**

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

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

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

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

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

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

360 of
the provisions of this subheading;

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

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

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

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

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

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

640 (4) PARTICIPATION IN A REQUIRED 1 YEAR INPATIENT OR OUTPATIENT
650 REHABILITATION PROGRAM.

660 (c) Sentencing.

670 (1) A person who is convicted under subsection (b) (1) or subsection (b) (2) of this section, or
680 of conspiracy to violate subsection (b) (1) or (b) (2) of this section shall be sentenced to
690 imprisonment for not ~~less~~ MORE than ~~40~~ 50 years and subject to a fine not exceeding \$100,000 if
700 the person previously has been convicted:

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

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

or

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

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

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

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

850 (1) A person who is convicted under subsection (b) (1) or subsection (b) (2) of this
860 section or of conspiracy to violate subsection (b) (1) or subsection (b) (2) of this section shall be
870 sentenced to imprisonment for the term allowed by law, but, in any event, not ~~less~~ MORE than ~~25~~
880 50 years and subject to a fine not exceeding \$100,000 if the person previously:

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

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

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

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

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

1000 4. Of any combination of these offenses.

1010 ~~(2) Neither the sentence required under paragraph (1) of this subsection nor any part of it~~
~~may~~
1020 ~~be suspended, and~~ the person may not be eligible for parole except in accordance with § 4-305 of
1030 the Correctional Services Article.

1040 (3) A separate occasion shall be considered one in which the second or succeeding offense is
1050 committed after there has been a charging document filed for the preceding offense.

1060 (4) PARTICIPATION IN A REQUIRED 1 YEAR INPATIENT OR OUTPATIENT
1070 REHABILITATION PROGRAM.

1080 (e) Additional penalty for three or more previous offenses.

1090 (1) A person who is convicted under subsection (b) (1) or subsection (b) (2) of this section or
1100 of conspiracy to violate subsection (b) (1) or subsection (b) (2) of this section shall be sentenced to
1110 imprisonment for the term allowed by law, but in any event, not less MORE than 40 100 years and
1120 subject to a fine not exceeding \$100,000 if the person previously has served 3 separate terms of
1130 confinement as a result of 3 separate convictions:

1140 (i) Under subsection (b) (1) or subsection (b) (2) of this section;

1150 (ii) Of conspiracy to violate subsection (b) (1) or subsection (b) (2) of this section;

1160 (iii) Of an offense under the laws of another state, the District of Columbia, or the
1170 United States that would be a violation of subsection (b) (1) or subsection (b) (2) of this
1180 section if committed in this State; or

1190 (iv) Of any combination of these offenses.

1200 (2) ~~Neither the sentence required under paragraph (1) of this subsection nor any part of it~~
1210 ~~may~~ be suspended, and the person may not be eligible for parole except in accordance with section 4-
1220 305 of the Correctional Services Article.

1230 MANDATES: Governor Parris N. Glandening
1240 Lt. Governor Kathleen Kennedy Townsend
1250 Attorney General J. Joseph Curran, Jr.
1260 Senate President Thomas V. "Mike" Miller
1270 Speaker of the House of Delegates Casper R. Taylor, Jr.
1280 Senator Walter M. Baker, Chairman of Judicial Proceedings Committee
1290 Delegate Joseph F. Vallario, Chairman of Judiciary Committee

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