

Chapter 490

(House Bill 121)

AN ACT concerning

**Criminal Procedure – Drug-Related Offenses – ~~Repeal of~~ Departure From Mandatory Minimum Sentences for Second-Time Offenders**

FOR the purpose of ~~repealing certain mandatory minimum sentences for certain drug-related offenses~~; specifying that a person convicted of certain drug-related offenses is not prohibited from participating in a certain drug treatment program; authorizing a court to depart from a certain mandatory minimum sentence under certain circumstances; ~~providing that a person who is serving a term of confinement that includes a mandatory minimum sentence imposed on or before a certain date is entitled to a certain hearing and a certain sentence review~~; requiring that a person who seeks a hearing or sentence review submit an application on or before a certain date; altering certain penalties; ~~repealing a prohibition against a person possessing a regulated firearm if the person was previously convicted of certain drug-related offenses~~; providing for the prospective application of this Act; requiring the savings realized as a result of this Act to revert to the General Fund to be used for a certain purpose; and generally relating to penalties for drug-related offenses.

BY repealing and reenacting, without amendments,  
Article – Criminal Law  
Section 5-602, 5-603, 5-604, 5-605, and ~~and~~ 5-606, ~~5-608(a), and 5-609(a)~~  
Annotated Code of Maryland  
(2012 Replacement Volume and 2014 Supplement)

BY repealing and reenacting, with amendments,  
Article – Criminal Law  
Section 5-607, ~~5-608, and 5-609~~ ~~5-608(b), and 5-609(b)~~ 5-608, and 5-609  
Annotated Code of Maryland  
(2012 Replacement Volume and 2014 Supplement)

BY adding to  
Article – Criminal Law  
Section 5-609.1  
Annotated Code of Maryland  
(2012 Replacement Volume and 2014 Supplement)

~~BY repealing and reenacting, with amendments,~~  
~~Article – Public Safety~~  
~~Section 5-133(e)~~  
~~Annotated Code of Maryland~~  
~~(2011 Replacement Volume and 2014 Supplement)~~

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

**Article – Criminal Law**

5–602.

Except as otherwise provided in this title, a person may not:

- (1) distribute or dispense a controlled dangerous substance; or
- (2) possess a controlled dangerous substance in sufficient quantity reasonably to indicate under all circumstances an intent to distribute or dispense a controlled dangerous substance.

5–603.

Except as otherwise provided in this title, a person may not manufacture a controlled dangerous substance, or manufacture, distribute, or possess a machine, equipment, instrument, implement, device, or a combination of them that is adapted to produce a controlled dangerous substance under circumstances that reasonably indicate an intent to use it to produce, sell, or dispense a controlled dangerous substance in violation of this title.

5–604.

(a) In this section, “counterfeit substance” means a controlled dangerous substance, or its container or labeling, that:

- (1) without authorization, bears a likeness of the trademark, trade name, or other identifying mark, imprint, number, or device of a manufacturer, distributor, or dispenser other than the actual manufacturer, distributor, or dispenser; and
- (2) thereby falsely purports or is represented to be the product of, or to have been distributed by, the other manufacturer, distributor, or dispenser.

(b) Except as otherwise provided in this title, a person may not:

- (1) create or distribute a counterfeit substance; or
- (2) possess a counterfeit substance with intent to distribute it.

(c) Except as otherwise provided in this title, a person may not manufacture, distribute, or possess equipment that is designed to print, imprint, or reproduce an authentic or imitation trademark, trade name, other identifying mark, imprint, number, or device of another onto a drug or the container or label of a drug, rendering the drug a counterfeit substance.

5-605.

(a) "Common nuisance" means a dwelling, building, vehicle, vessel, aircraft, or other place:

(1) resorted to by individuals for the purpose of administering illegally controlled dangerous substances; or

(2) where controlled dangerous substances or controlled paraphernalia are manufactured, distributed, dispensed, stored, or concealed illegally.

(b) A person may not keep a common nuisance.

5-606.

(a) Except as otherwise provided in this title, a person may not pass, issue, make, or possess a false, counterfeit, or altered prescription for a controlled dangerous substance with intent to distribute the controlled dangerous substance.

(b) Information that is communicated to an authorized prescriber in an effort to obtain a controlled dangerous substance in violation of subsection (a) of this section is not a privileged communication.

5-607.

(a) Except as provided in §§ 5-608 and 5-609 of this subtitle, a person who violates a provision of §§ 5-602 through 5-606 of this subtitle is guilty of a felony and on conviction is subject to imprisonment not exceeding 5 years or a fine not exceeding \$15,000 or both.

~~(b) (1) A person who IS CONVICTED UNDER SUBSECTION (A) OF THIS SECTION FOR A VIOLATION OF § 5-603 OF THIS SUBTITLE AND has been convicted previously under subsection (a) of this section FOR A VIOLATION OF § 5-603 OF THIS SUBTITLE shall be sentenced to imprisonment for not less than 2 years.~~

~~(2) The court may not suspend the mandatory minimum sentence to less than 2 years.~~

~~(3) Except as provided in § 4-305 of the Correctional Services Article, the person is not eligible for parole during the mandatory minimum sentence.]~~

~~(C) (1) A PERSON WHO IS CONVICTED UNDER SUBSECTION (A) OF THIS SECTION FOR A VIOLATION OF § 5-602, § 5-604, § 5-605, OR § 5-606 OF THIS SUBTITLE AND HAS BEEN CONVICTED AT LEAST TWICE PREVIOUSLY UNDER~~

~~SUBSECTION (A) OF THIS SECTION SHALL BE SENTENCED TO IMPRISONMENT FOR NOT LESS THAN 2 YEARS.~~

~~(2) THE COURT MAY NOT SUSPEND THE MANDATORY MINIMUM SENTENCE TO LESS THAN 2 YEARS.~~

~~(3) EXCEPT AS PROVIDED IN § 4-305 OF THE CORRECTIONAL SERVICES ARTICLE, THE PERSON IS NOT ELIGIBLE FOR PAROLE DURING THE MANDATORY MINIMUM SENTENCE.~~

*(b) (1) [A] EXCEPT AS PROVIDED IN § 5-609.1 OF THIS SUBTITLE, A person who has been convicted previously under subsection (a) of this section shall be sentenced to imprisonment for not less than 2 years.*

*(2) The court may not suspend the mandatory minimum sentence to less than 2 years.*

*(3) Except as provided in § 4-305 of the Correctional Services Article, the person is not eligible for parole during the mandatory minimum sentence.*

~~(D) (C) A PERSON CONVICTED UNDER SUBSECTION (A) OF THIS SECTION IS NOT PROHIBITED FROM PARTICIPATING IN A DRUG TREATMENT PROGRAM UNDER § 8-507 OF THE HEALTH – GENERAL ARTICLE BECAUSE OF THE LENGTH OF THE SENTENCE.~~

~~(e) (1) NOTWITHSTANDING ANY OTHER PROVISION OF LAW AND SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, A PERSON WHO IS SERVING A TERM OF CONFINEMENT THAT INCLUDES A MANDATORY MINIMUM SENTENCE IMPOSED ON OR BEFORE SEPTEMBER 30, 2015, FOR A VIOLATION OF A PROVISION OF §§ 5-602 THROUGH 5-606 OF THIS SUBTITLE IS ELIGIBLE FOR:~~

~~(i) ONE HEARING BEFORE THE COURT TO MODIFY OR REDUCE THE MANDATORY MINIMUM SENTENCE AS PROVIDED IN MARYLAND RULE 4-345, EVEN IF THE DEFENDANT DID NOT TIMELY FILE A MOTION FOR RECONSIDERATION OR A MOTION FOR RECONSIDERATION WAS DENIED BY THE COURT; AND~~

~~(ii) ONE SENTENCE REVIEW OF THE MANDATORY MINIMUM SENTENCE BY A REVIEW PANEL AS PROVIDED IN § 8-102 OF THE CRIMINAL PROCEDURE ARTICLE.~~

~~(2) THE COURT OR THE REVIEW PANEL MAY STRIKE THE RESTRICTION AGAINST PAROLE OR REDUCE THE LENGTH OF THE SENTENCE.~~

~~(3) TO BE GRANTED A HEARING OR SENTENCE REVIEW UNDER PARAGRAPH (1) OF THIS SUBSECTION, A PERSON SHALL SUBMIT AN APPLICATION TO THE COURT OR REVIEW PANEL ON OR BEFORE SEPTEMBER 30, 2018.~~

5-608.

(a) Except as otherwise provided in this section, a person who violates a provision of §§ 5-602 through 5-606 of this subtitle with respect to a Schedule I or Schedule II narcotic drug is guilty of a felony and on conviction is subject to imprisonment not exceeding 20 years or a fine not exceeding \$25,000 or both.

~~(b) (1) A EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A person who is convicted under subsection (a) of this section or of conspiracy to commit a crime included in subsection (a) of this section [shall be sentenced to imprisonment for not less than 10 years and is subject to a fine not exceeding \$100,000] IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 20 YEARS OR A FINE NOT EXCEEDING \$100,000 OR BOTH if the person previously has been convicted once:~~

~~(i)(1) under subsection (a) of this section or § 5-609 of this subtitle;~~

~~(ii)(2) of conspiracy to commit a crime included in subsection (a) of this section or § 5-609 of this subtitle; or~~

~~(iii)(3) of a crime under the laws of another state or the United States that would be a crime included in subsection (a) of this section or § 5-609 of this subtitle if committed in this State.~~

~~(2) (1) A PERSON WHO IS CONVICTED UNDER SUBSECTION (A) OF THIS SECTION OR OF CONSPIRACY TO COMMIT A CRIME INCLUDED UNDER SUBSECTION (A) OF THIS SECTION FOR A VIOLATION OF § 5-603 OF THIS SUBTITLE SHALL BE SENTENCED TO IMPRISONMENT FOR NOT LESS THAN 10 YEARS AND IS SUBJECT TO A FINE NOT EXCEEDING \$100,000 IF THE PERSON PREVIOUSLY HAS BEEN CONVICTED ONCE:~~

~~1. UNDER SUBSECTION (A) OF THIS SECTION OR § 5-609 OF THIS SUBTITLE FOR A VIOLATION OF § 5-603 OF THIS SUBTITLE;~~

~~2. OF CONSPIRACY TO COMMIT A CRIME INCLUDED IN SUBSECTION (A) OF THIS SECTION OR § 5-609 OF THIS SUBTITLE FOR A VIOLATION OF § 5-603 OF THIS SUBTITLE; OR~~

~~3. OF A CRIME UNDER THE LAWS OF ANOTHER STATE OR THE UNITED STATES THAT WOULD BE A CRIME INCLUDED IN SUBSECTION (A) OF~~

~~**THIS SECTION OR § 5-609 OF THIS SUBTITLE FOR A VIOLATION OF § 5-603 OF THIS SUBTITLE IF COMMITTED IN THIS STATE.**~~

~~(H) 1. The court may not suspend the mandatory minimum sentence to less than 10 years.~~

~~(3) 2. Except as provided in § 4-305 of the Correctional Services Article, the person is not eligible for parole during the mandatory minimum sentence.~~

~~(4) (3) A person convicted under subsection (a) of this section is not prohibited from participating in a drug treatment program under § 8-507 of the Health - General Article because of the length of the sentence.]~~

*(b) (1) [A] EXCEPT AS PROVIDED IN § 5-609.1 OF THIS SUBTITLE, A person who is convicted under subsection (a) of this section or of conspiracy to commit a crime included in subsection (a) of this section shall be sentenced to imprisonment for not less than 10 years and is subject to a fine not exceeding \$100,000 if the person previously has been convicted once:*

*(i) under subsection (a) of this section or § 5-609 of this subtitle;*

*(ii) of conspiracy to commit a crime included in subsection (a) of this section or § 5-609 of this subtitle; or*

*(iii) of a crime under the laws of another state or the United States that would be a crime included in subsection (a) of this section or § 5-609 of this subtitle if committed in this State.*

*(2) The court may not suspend the mandatory minimum sentence to less than 10 years.*

*(3) Except as provided in § 4-305 of the Correctional Services Article, the person is not eligible for parole during the mandatory minimum sentence.*

*[(4) A person convicted under subsection (a) of this section is not prohibited from participating in a drug treatment program under § 8-507 of the Health - General Article because of the length of the sentence.]*

*(c) (1) [A] EXCEPT AS PROVIDED IN § 5-609.1 OF THIS SUBTITLE, A person who is convicted under subsection (a) of this section or of conspiracy to commit a crime included in subsection (a) of this section shall be sentenced to imprisonment for not less than 25 years and is subject to a fine not exceeding \$100,000 if the person previously:*

*(i) has served at least one term of confinement of at least 180 days in a correctional institution as a result of a conviction:*

1. under subsection (a) of this section or § 5-609 or § 5-614 of this subtitle;

2. of conspiracy to commit a crime included in subsection (a) of this section or § 5-609 of this subtitle; or

3. of a crime under the laws of another state or the United States that would be a crime included in subsection (a) of this section or § 5-609 of this subtitle if committed in this State; and

(ii) has been convicted twice, if the convictions arise from separate occasions:

1. under subsection (a) of this section or § 5-609 of this subtitle;

2. of conspiracy to commit a crime included in subsection (a) of this section or § 5-609 of this subtitle;

3. of a crime under the laws of another state or the United States that would be a crime included in subsection (a) of this section or § 5-609 of this subtitle if committed in this State; or

4. of any combination of these crimes.

(2) The court may not suspend any part of the mandatory minimum sentence of 25 years.

(3) Except as provided in § 4-305 of the Correctional Services Article, the person is not eligible for parole during the mandatory minimum sentence.

(4) A separate occasion is one in which the second or succeeding crime is committed after there has been a charging document filed for the preceding crime.

(d) (1) [A] EXCEPT AS PROVIDED IN § 5-609.1 OF THIS SUBTITLE, A person who is convicted under subsection (a) of this section or of conspiracy to commit a crime included in subsection (a) of this section shall be sentenced to imprisonment for not less than 40 years and is subject to a fine not exceeding \$100,000 if the person previously has served three or more separate terms of confinement as a result of three or more separate convictions:

(i) under subsection (a) of this section or § 5-609 of this subtitle;

(ii) of conspiracy to commit a crime included in subsection (a) of this section or § 5-609 of this subtitle;

(iii) of a crime under the laws of another state or the United States that would be a crime included in subsection (a) of this section or § 5-609 of this subtitle if committed in this State; or

(iv) of any combination of these crimes.

(2) The court may not suspend any part of the mandatory minimum sentence of 40 years.

(3) Except as provided in § 4-305 of the Correctional Services Article, the person is not eligible for parole during the mandatory minimum sentence.

**(E) A PERSON CONVICTED UNDER SUBSECTION (A) OF THIS SECTION OR OF CONSPIRACY TO COMMIT A CRIME INCLUDED IN SUBSECTION (A) OF THIS SECTION IS NOT PROHIBITED FROM PARTICIPATING IN A DRUG TREATMENT PROGRAM UNDER § 8-507 OF THE HEALTH – GENERAL ARTICLE BECAUSE OF THE LENGTH OF THE SENTENCE.**

~~(e) (1) A person who is convicted under subsection (a) of this section or of conspiracy to commit a crime included in subsection (a) of this section [shall be sentenced to imprisonment for not less than 25 years and is subject to a fine not exceeding \$100,000] IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 25 YEARS OR A FINE NOT EXCEEDING \$100,000 OR BOTH if the person previously:~~

~~(i) has served at least one term of confinement of at least 180 days in a correctional institution as a result of a conviction:~~

~~1. under subsection (a) of this section or § 5-609 or § 5-614 of this subtitle;~~

~~2. of conspiracy to commit a crime included in subsection (a) of this section or § 5-609 of this subtitle; or~~

~~3. of a crime under the laws of another state or the United States that would be a crime included in subsection (a) of this section or § 5-609 of this subtitle if committed in this State; and~~

~~(ii) has been convicted twice, if the convictions arise from separate occasions:~~

~~1. under subsection (a) of this section or § 5-609 of this subtitle;~~

~~2. of conspiracy to commit a crime included in subsection (a) of this section or § 5-609 of this subtitle;~~



~~3. of a crime under the laws of another state or the United States that would be a crime included in subsection (a) of this section or § 5-609 of this subtitle if committed in this State; or~~

~~4. of any combination of these crimes.~~

~~(2) [The court may not suspend any part of the mandatory minimum sentence of 25 years.~~

~~(3) Except as provided in § 4-305 of the Correctional Services Article, the person is not eligible for parole during the mandatory minimum sentence.~~

~~(4) A separate occasion is one in which the second or succeeding crime is committed after there has been a charging document filed for the preceding crime.~~

~~(d) (1) A person who is convicted under subsection (a) of this section or of conspiracy to commit a crime included in subsection (a) of this section [shall be sentenced to imprisonment for not less than 40 years and is subject to a fine not exceeding \$100,000] IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 40 YEARS OR A FINE NOT EXCEEDING \$100,000 OR BOTH if the person previously has served three or more separate terms of confinement as a result of three or more separate convictions:~~

~~(i)(1) under subsection (a) of this section or § 5-609 of this subtitle;~~

~~(ii)(2) of conspiracy to commit a crime included in subsection (a) of this section or § 5-609 of this subtitle;~~

~~(iii)(3) of a crime under the laws of another state or the United States that would be a crime included in subsection (a) of this section or § 5-609 of this subtitle if committed in this State; or~~

~~(iv)(4) of any combination of these crimes.~~

~~(2) The court may not suspend any part of the mandatory minimum sentence of 40 years.~~

~~(3) Except as provided in § 4-305 of the Correctional Services Article, the person is not eligible for parole during the mandatory minimum sentence.]~~

~~(E) A PERSON CONVICTED UNDER SUBSECTION (A) OF THIS SECTION OR OF CONSPIRACY TO COMMIT A CRIME INCLUDED IN SUBSECTION (A) OF THIS SECTION IS NOT PROHIBITED FROM PARTICIPATING IN A DRUG TREATMENT PROGRAM UNDER~~

~~§ 8-507 OF THE HEALTH GENERAL ARTICLE BECAUSE OF THE LENGTH OF THE SENTENCE.~~

~~(F) (1) NOTWITHSTANDING ANY OTHER PROVISION OF LAW AND SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, A PERSON WHO IS SERVING A TERM OF CONFINEMENT THAT INCLUDES A MANDATORY MINIMUM SENTENCE IMPOSED ON OR BEFORE SEPTEMBER 30, 2015, FOR A VIOLATION OF THIS SECTION IS ELIGIBLE FOR:~~

~~(I) ONE HEARING BEFORE THE COURT TO MODIFY OR REDUCE THE MANDATORY MINIMUM SENTENCE AS PROVIDED IN MARYLAND RULE 4-345, EVEN IF THE DEFENDANT DID NOT TIMELY FILE A MOTION FOR RECONSIDERATION OR A MOTION FOR RECONSIDERATION WAS DENIED BY THE COURT; AND~~

~~(II) ONE SENTENCE REVIEW OF THE MANDATORY MINIMUM SENTENCE BY A REVIEW PANEL AS PROVIDED IN § 8-102 OF THE CRIMINAL PROCEDURE ARTICLE.~~

~~(2) THE COURT OR THE REVIEW PANEL MAY STRIKE THE RESTRICTION AGAINST PAROLE OR REDUCE THE LENGTH OF THE SENTENCE.~~

~~(3) TO BE GRANTED A HEARING OR SENTENCE REVIEW UNDER PARAGRAPH (1) OF THIS SUBSECTION, A PERSON SHALL SUBMIT AN APPLICATION TO THE COURT OR REVIEW PANEL ON OR BEFORE SEPTEMBER 30, 2018.~~

5-609.

(a) Except as otherwise provided in this section, a person who violates a provision of §§ 5-602 through 5-606 of this subtitle with respect to any of the following controlled dangerous substances is guilty of a felony and on conviction is subject to imprisonment not exceeding 20 years or a fine not exceeding \$20,000 or both:

- (1) phencyclidine;
- (2) 1-(1-phenylcyclohexyl) piperidine;
- (3) 1-phenylcyclohexylamine;
- (4) 1-piperidinocyclohexanecarbonitrile;
- (5) N-ethyl-1-phenylcyclohexylamine;
- (6) 1-(1-phenylcyclohexyl)-pyrrolidine;
- (7) 1-(1-(2-thienyl)-cyclohexyl)-piperidine;

- (8) lysergic acid diethylamide; or
- (9) 750 grams or more of 3, 4-methylenedioxyamphetamine (MDMA).

~~(b) [(1)] A EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A person who is convicted under subsection (a) of this section or of conspiracy to commit a crime included in subsection (a) of this section [shall be sentenced to imprisonment for not less than 10 years and is subject to a fine not exceeding \$100,000] IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 20 YEARS OR A FINE NOT EXCEEDING \$100,000 OR BOTH if the person previously has been convicted once:~~

~~[(i)](1) under subsection (a) of this section or § 5-608 of this subtitle;~~

~~[(ii)](2) of conspiracy to commit a crime included in subsection (a) of this section or § 5-608 of this subtitle;~~

~~[(iii)](3) of a crime under the laws of another state or the United States that would be a crime included in subsection (a) of this section or § 5-608 of this subtitle if committed in this State; or~~

~~[(iv)](4) of any combination of these crimes.~~

~~[(2) (1) A PERSON WHO IS CONVICTED UNDER SUBSECTION (A) OF THIS SECTION OR OF CONSPIRACY TO COMMIT A CRIME INCLUDED IN SUBSECTION (A) OF THIS SECTION FOR A VIOLATION OF § 5-603 OF THIS SUBTITLE SHALL BE SENTENCED TO IMPRISONMENT FOR NOT LESS THAN 10 YEARS AND IS SUBJECT TO A FINE NOT EXCEEDING \$100,000 IF THE PERSON PREVIOUSLY HAS BEEN CONVICTED ONCE:~~

~~1. UNDER SUBSECTION (A) OF THIS SECTION OR § 5-608 OF THIS SUBTITLE FOR A VIOLATION OF § 5-603 OF THIS SUBTITLE;~~

~~2. OF CONSPIRACY TO COMMIT A CRIME INCLUDED IN SUBSECTION (A) OF THIS SECTION OR § 5-608 OF THIS SUBTITLE FOR A VIOLATION OF § 5-603 OF THIS SUBTITLE;~~

~~3. OF A CRIME UNDER THE LAWS OF ANOTHER STATE OR THE UNITED STATES THAT WOULD BE A CRIME INCLUDED IN SUBSECTION (A) OF THIS SECTION OR § 5-608 OF THIS SUBTITLE FOR A VIOLATION OF § 5-603 OF THIS SUBTITLE IF COMMITTED IN THIS STATE; OR~~

~~4. OF ANY COMBINATION OF THESE CRIMES.~~

~~(H) 1. The court may not suspend the mandatory minimum sentence to less than 10 years.~~

~~(3) 2. Except as provided in § 4-305 of the Correctional Services Article, the person is not eligible for parole during the mandatory minimum sentence.~~

~~(4) (3) A person convicted under subsection (a) of this section is not prohibited from participating in a drug treatment program under § 8-507 of the Health – General Article because of the length of the sentence.]~~

(b) (1) [A] EXCEPT AS PROVIDED IN § 5-609.1 OF THIS SUBTITLE, A person who is convicted under subsection (a) of this section or of conspiracy to commit a crime included in subsection (a) of this section shall be sentenced to imprisonment for not less than 10 years and is subject to a fine not exceeding \$100,000 if the person previously has been convicted once:

(i) under subsection (a) of this section or § 5-608 of this subtitle;

(ii) of conspiracy to commit a crime included in subsection (a) of this section or § 5-608 of this subtitle;

(iii) of a crime under the laws of another state or the United States that would be a crime included in subsection (a) of this section or § 5-608 of this subtitle if committed in this State; or

(iv) of any combination of these crimes.

(2) The court may not suspend the mandatory minimum sentence to less than 10 years.

(3) Except as provided in § 4-305 of the Correctional Services Article, the person is not eligible for parole during the mandatory minimum sentence.

[(4) A person convicted under subsection (a) of this section is not prohibited from participating in a drug treatment program under § 8-507 of the Health – General Article because of the length of the sentence.]

(c) (1) [A] EXCEPT AS PROVIDED IN § 5-609.1 OF THIS SUBTITLE, A person who is convicted under subsection (a) of this section or of conspiracy to commit a crime included in subsection (a) of this section shall be sentenced to imprisonment for not less than 25 years and is subject to a fine not exceeding \$100,000 if the person previously:

(i) has served at least one term of confinement of at least 180 days in a correctional institution as a result of a conviction under subsection (a) of this section, § 5-608 of this subtitle, or § 5-614 of this subtitle; and

(ii) if the convictions do not arise from a single incident, has been convicted twice:

1. under subsection (a) of this section or § 5-608 of this subtitle;

2. of conspiracy to commit a crime included in subsection (a) of this section or § 5-608 of this subtitle;

3. of a crime under the laws of another state or the United States that would be a crime included in subsection (a) of this section or § 5-608 of this subtitle if committed in this State; or

4. of any combination of these crimes.

(2) The court may not suspend any part of the mandatory minimum sentence of 25 years.

(3) Except as provided in § 4-305 of the Correctional Services Article, the person is not eligible for parole during the mandatory minimum sentence.

(4) A separate occasion is one in which the second or succeeding crime is committed after there has been a charging document filed for the preceding crime.

(d) (1) [A] EXCEPT AS PROVIDED IN § 5-609.1 OF THIS SUBTITLE, A person who is convicted under subsection (a) of this section or of conspiracy to commit a crime included in subsection (a) of this section shall be sentenced to imprisonment for not less than 40 years and is subject to a fine not exceeding \$100,000 if the person previously has served three separate terms of confinement as a result of three separate convictions:

(i) under subsection (a) of this section or § 5-608 of this subtitle;

(ii) of conspiracy to commit a crime included in subsection (a) of this section or § 5-608 of this subtitle;

(iii) of a crime under the laws of another state or the United States that would be a crime included in subsection (a) of this section or § 5-608 of this subtitle if committed in this State; or

(iv) of any combination of these crimes.

(2) The court may not suspend any part of the mandatory minimum sentence of 40 years.

(3) Except as provided in § 4-305 of the Correctional Services Article, the person is not eligible for parole during the mandatory minimum sentence.

(E) A PERSON CONVICTED UNDER SUBSECTION (A) OF THIS SECTION OR OF CONSPIRACY TO COMMIT A CRIME INCLUDED IN SUBSECTION (A) OF THIS SECTION IS NOT PROHIBITED FROM PARTICIPATING IN A DRUG TREATMENT PROGRAM UNDER § 8-507 OF THE HEALTH – GENERAL ARTICLE BECAUSE OF THE LENGTH OF THE SENTENCE.

5-609.1.

A COURT MAY DEPART FROM A MANDATORY MINIMUM SENTENCE PRESCRIBED IN § 5-607, § 5-608, OR § 5-609 OF THIS SUBTITLE IF THE COURT FINDS AND STATES ON THE RECORD THAT, GIVING DUE REGARD TO THE NATURE OF THE CRIME, THE HISTORY AND CHARACTER OF THE DEFENDANT, AND THE DEFENDANT'S CHANCES OF SUCCESSFUL REHABILITATION:

(1) IMPOSITION OF THE MANDATORY MINIMUM SENTENCE WOULD RESULT IN SUBSTANTIAL INJUSTICE TO THE DEFENDANT; AND

(2) THE MANDATORY MINIMUM SENTENCE IS NOT NECESSARY FOR THE PROTECTION OF THE PUBLIC.

~~(e) (1) A person who is convicted under subsection (a) of this section or of conspiracy to commit a crime included in subsection (a) of this section [shall be sentenced to imprisonment for not less than 25 years and is subject to a fine not exceeding \$100,000] IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 30 YEARS OR A FINE NOT EXCEEDING \$100,000 OR BOTH if the person previously:~~

~~(i) has served at least one term of confinement of at least 180 days in a correctional institution as a result of a conviction under subsection (a) of this section, § 5-608 of this subtitle, or § 5-614 of this subtitle; and~~

~~(ii) if the convictions do not arise from a single incident, has been convicted twice:~~

~~1. under subsection (a) of this section or § 5-608 of this subtitle;~~

~~2. of conspiracy to commit a crime included in subsection (a) of this section or § 5-608 of this subtitle;~~

~~3. of a crime under the laws of another state or the United States that would be a crime included in subsection (a) of this section or § 5-608 of this subtitle if committed in this State; or~~

~~4. of any combination of these crimes.~~

~~(2) [The court may not suspend any part of the mandatory minimum sentence of 25 years.~~

~~(3) Except as provided in § 4-305 of the Correctional Services Article, the person is not eligible for parole during the mandatory minimum sentence.~~

~~(4) A separate occasion is one in which the second or succeeding crime is committed after there has been a charging document filed for the preceding crime.~~

~~(d) [(1)] A person who is convicted under subsection (a) of this section or of conspiracy to commit a crime included in subsection (a) of this section [shall be sentenced to imprisonment for not less than 40 years and is subject to a fine not exceeding \$100,000] IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 40 YEARS OR A FINE NOT EXCEEDING \$100,000 OR BOTH if the person previously has served three separate terms of confinement as a result of three separate convictions:~~

~~[(i)](1) under subsection (a) of this section or § 5-608 of this subtitle;~~

~~[(ii)](2) of conspiracy to commit a crime included in subsection (a) of this section or § 5-608 of this subtitle;~~

~~[(iii)](3) of a crime under the laws of another state or the United States that would be a crime included in subsection (a) of this section or § 5-608 of this subtitle if committed in this State; or~~

~~[(iv)](4) of any combination of these crimes.~~

~~[(2) The court may not suspend any part of the mandatory minimum sentence of 40 years.~~

~~(3) Except as provided in § 4-305 of the Correctional Services Article, the person is not eligible for parole during the mandatory minimum sentence.]~~

~~(E) A PERSON CONVICTED UNDER SUBSECTION (A) OF THIS SECTION OR OF CONSPIRACY TO COMMIT A CRIME INCLUDED IN SUBSECTION (A) OF THIS SECTION IS NOT PROHIBITED FROM PARTICIPATING IN A DRUG TREATMENT PROGRAM UNDER § 8-507 OF THE HEALTH GENERAL ARTICLE BECAUSE OF THE LENGTH OF THE SENTENCE.~~

~~(F) (1) NOTWITHSTANDING ANY OTHER PROVISION OF LAW AND SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, A PERSON WHO IS SERVING A TERM OF CONFINEMENT THAT INCLUDES A MANDATORY MINIMUM SENTENCE IMPOSED ON OR BEFORE SEPTEMBER 30, 2015, FOR A VIOLATION OF THIS SECTION IS ELIGIBLE FOR:~~

~~(I) ONE HEARING BEFORE THE COURT TO MODIFY OR REDUCE THE MANDATORY MINIMUM SENTENCE AS PROVIDED IN MARYLAND RULE 4-345, EVEN IF THE DEFENDANT DID NOT TIMELY FILE A MOTION FOR RECONSIDERATION OR A MOTION FOR RECONSIDERATION WAS DENIED BY THE COURT; AND~~

~~(II) ONE SENTENCE REVIEW OF THE MANDATORY MINIMUM SENTENCE BY A REVIEW PANEL AS PROVIDED IN § 8-102 OF THE CRIMINAL PROCEDURE ARTICLE.~~

~~(2) THE COURT OR THE REVIEW PANEL MAY STRIKE THE RESTRICTION AGAINST PAROLE OR REDUCE THE LENGTH OF THE SENTENCE.~~

~~(3) TO BE GRANTED A HEARING OR SENTENCE REVIEW UNDER PARAGRAPH (1) OF THIS SUBSECTION, A PERSON SHALL SUBMIT AN APPLICATION TO THE COURT OR REVIEW PANEL ON OR BEFORE SEPTEMBER 30, 2018.~~

#### ~~Article — Public Safety~~

~~5-133.~~

~~(e) (1) A person may not possess a regulated firearm if the person was previously convicted of:~~

~~(i) a crime of violence; OR~~

~~(ii) [a violation of § 5-602, § 5-603, § 5-604, § 5-605, § 5-612, § 5-613, or § 5-614 of the Criminal Law Article; or~~

~~(iii)] an offense under the laws of another state or the United States that would constitute [one of the crimes listed in item (i) or (ii) of this paragraph] A CRIME OF VIOLENCE if committed in this State.~~

~~(2) (i) Subject to paragraph (3) of this subsection, a person who violates this subsection is guilty of a felony and on conviction is subject to imprisonment for not less than 5 years and not exceeding 15 years.~~

~~(ii) The court may not suspend any part of the mandatory minimum sentence of 5 years.~~



~~(iii) Except as otherwise provided in § 4-305 of the Correctional Services Article, the person is not eligible for parole during the mandatory minimum sentence.~~

~~(3) At the time of the commission of the offense, if a period of more than 5 years has elapsed since the person completed serving the sentence for the most recent conviction under paragraph (1)(i) or (ii) of this subsection, including all imprisonment, mandatory supervision, probation, and parole:~~

~~(i) the imposition of the mandatory minimum sentence is within the discretion of the court; and~~

~~(ii) the mandatory minimum sentence may not be imposed unless the State's Attorney notifies the person in writing at least 30 days before trial of the State's intention to seek the mandatory minimum sentence.~~

~~(4) Each violation of this subsection is a separate crime.~~

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

SECTION 3. AND BE IT FURTHER ENACTED, That the savings realized as a result of this Act shall revert to the General Fund to be used for funding drug treatment programs.

SECTION ~~2~~ ~~3~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2015.

**Enacted under Article II, § 17(c) of the Maryland Constitution, May 30, 2015.**