

HOUSE BILL 5

E2
HB 355/20 – JUD

EMERGENCY BILL

2lr0278
CF SB 5

By: **The Speaker (By Request – Administration)**

Introduced and read first time: December 7, 2021

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **State Commission on Criminal Sentencing Policy – Plea Agreements and Annual**
3 **Report**
4 **(The Judicial Transparency Act of 2021)**

5 FOR the purpose of providing that a sentence imposed under a plea agreement may not be
6 considered to be compliant with certain sentencing guidelines unless the sentence
7 falls within a certain range; requiring a certain annual report by the State
8 Commission on Criminal Sentencing Policy to identify certain information for crimes
9 of violence; and generally relating to the State Commission on Criminal Sentencing
10 Policy.

11 BY repealing and reenacting, without amendments,
12 Article – Criminal Law
13 Section 14–101(a)
14 Annotated Code of Maryland
15 (2021 Replacement Volume and 2021 Supplement)

16 BY repealing and reenacting, without amendments,
17 Article – Criminal Procedure
18 Section 6–201
19 Annotated Code of Maryland
20 (2018 Replacement Volume and 2021 Supplement)

21 BY repealing and reenacting, with amendments,
22 Article – Criminal Procedure
23 Section 6–208 and 6–209
24 Annotated Code of Maryland
25 (2018 Replacement Volume and 2021 Supplement)

26 BY adding to
27 Article – Criminal Procedure

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Section 6–215
2 Annotated Code of Maryland
3 (2018 Replacement Volume and 2021 Supplement)

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

6 **Article – Criminal Law**

7 14–101.

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

- 9 (1) abduction;
- 10 (2) arson in the first degree;
- 11 (3) kidnapping;
- 12 (4) manslaughter, except involuntary manslaughter;
- 13 (5) mayhem;
- 14 (6) maiming, as previously proscribed under former Article 27, §§ 385 and
15 386 of the Code;
- 16 (7) murder;
- 17 (8) rape;
- 18 (9) robbery under § 3–402 or § 3–403 of this article;
- 19 (10) carjacking;
- 20 (11) armed carjacking;
- 21 (12) sexual offense in the first degree;
- 22 (13) sexual offense in the second degree;
- 23 (14) use of a firearm in the commission of a felony except possession with
24 intent to distribute a controlled dangerous substance under § 5–602(2) of this article, or
25 other crime of violence;
- 26 (15) child abuse in the first degree under § 3–601 of this article;
- 27 (16) sexual abuse of a minor under § 3–602 of this article if:

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

3 (ii) the offense involved:

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

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

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

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

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

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

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

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

15 (21) assault in the first degree;

16 (22) assault with intent to murder;

17 (23) assault with intent to rape;

18 (24) assault with intent to rob;

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

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

21 Article – Criminal Procedure

22 6–201.

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

25 6–208.

26 (a) (1) The Commission shall adopt sentencing guidelines that the

1 Commission may change.

2 (2) The sentencing guidelines shall include sentencing guidelines for
3 ordinary sentences and sentencing guidelines for corrections options.

4 (b) The sentencing guidelines for ordinary sentences shall call for sentences
5 within the limits set by law and shall set forth:

6 (1) the range of sentences for crimes of a given degree of seriousness;

7 (2) a range of increased severity for defendants previously convicted of or
8 adjudicated delinquent for a previous crime; and

9 (3) a list of aggravating and mitigating circumstances.

10 (c) The sentencing guidelines for corrections options shall be designed to identify
11 defendants qualified for corrections options programs.

12 **(D) A SENTENCE IMPOSED UNDER A PLEA AGREEMENT MAY NOT BE**
13 **CONSIDERED TO BE COMPLIANT WITH THE SENTENCING GUIDELINES UNLESS THE**
14 **SENTENCE FALLS WITHIN THE ACTUAL SENTENCING GUIDELINES RANGE.**

15 6–209.

16 (a) The Commission shall review annually sentencing policy and practice and, on
17 or before January 31 of each year, report to the General Assembly, in accordance with §
18 2–1257 of the State Government Article, on the activities of the preceding calendar year.

19 (b) (1) The report shall:

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

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

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

26 **1. THE CRIME OF WHICH THE DEFENDANT WAS**
27 **CONVICTED;**

28 **2. THE SENTENCE IMPOSED;**

29 **3. THE APPLICABLE SENTENCING GUIDELINES RANGE;**

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

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

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

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

10 8. THE SENTENCING JUDGE;

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

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

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

20 **6–215.**

21 **THE COMMISSION SHALL INCLUDE APPROPRIATE ENTRY LOCATIONS ON A**
22 **SENTENCING GUIDELINES WORKSHEET FOR A COURT TO REPORT THE**
23 **INFORMATION REQUIRED TO BE IDENTIFIED UNDER § 6–209(B)(1)(III) OF THIS**
24 **SUBTITLE.**

25 SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency
26 measure, is necessary for the immediate preservation of the public health or safety, has
27 been passed by a yea and nay vote supported by three–fifths of all the members elected to
28 each of the two Houses of the General Assembly, and shall take effect from the date it is
29 enacted.