

SENATE BILL 173

E1

11r0122
CF HB 172

By: **The President (By Request – Administration) and Senators Astle, Brochin, Forehand, King, Manno, Peters, Raskin, Robey, Stone, and Zirkin**

Introduced and read first time: January 24, 2011
Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments
Senate action: Adopted
Read second time: March 26, 2011

CHAPTER _____

1 AN ACT concerning

2 ~~**Criminal Law— Task Force on Diminution Credits — Possession of a**~~
3 ~~**Regulated Firearm by Person Convicted of Crime of Violence**~~

4 FOR the purpose of ~~decreasing the number of days per month that an inmate serving~~
5 ~~a term of confinement that includes a consecutive or concurrent sentence for a~~
6 ~~crime of possession of a regulated firearm by a certain person prohibited from~~
7 ~~possessing a regulated firearm is allowed as a deduction in advance from the~~
8 ~~inmate's term of confinement; making stylistic changes; and generally relating~~
9 ~~to possession of firearms by certain persons and diminution credit eligibility~~
10 establishing a Task Force on Diminution Credits; providing for the composition,
11 chair, and staffing of the Task Force; providing that a member of the Task Force
12 may not receive compensation or reimbursement for expenses; requiring the
13 Task Force to review certain policies, procedures, laws, and national best
14 practices in the area of diminution credits; requiring the Task Force to make
15 certain recommendations to the Governor and the General Assembly; providing
16 for the termination of this Act; and generally relating to the Task Force on
17 Diminution Credits.

18 ~~BY repealing and reenacting, with amendments,~~
19 ~~Article — Correctional Services~~
20 ~~Section 3 — 704~~
21 ~~Annotated Code of Maryland~~
22 ~~(2008 Replacement Volume and 2010 Supplement)~~

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 ~~BY repealing and reenacting, without amendments,~~
 2 ~~Article—Public Safety~~
 3 ~~Section 5-133~~
 4 ~~Annotated Code of Maryland~~
 5 ~~(2003 Volume and 2010 Supplement)~~

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

8 ~~Article—Correctional Services~~

9 ~~§ 704.~~

10 ~~(a) An inmate shall be allowed a deduction in advance from the inmate's~~
 11 ~~term of confinement.~~

12 ~~(b) (1) The deduction allowed under subsection (a) of this section shall be~~
 13 ~~calculated:~~

14 ~~(i) from the first day of commitment to the custody of the~~
 15 ~~Commissioner through the last day of the inmate's term of confinement;~~

16 ~~(ii) except as provided in paragraph (2) of this subsection, at the~~
 17 ~~rate of 10 days for each calendar month; and~~

18 ~~(iii) on a prorated basis for any portion of a calendar month.~~

19 ~~[(2) If an inmate's term of confinement includes a consecutive or~~
 20 ~~concurrent sentence for a crime of violence as defined in § 14-101 of the Criminal Law~~
 21 ~~Article or a crime of manufacturing, distributing, dispensing, or possessing a~~
 22 ~~controlled dangerous substance in violation of §§ 5-602 through 5-609, § 5-612, or §~~
 23 ~~5-613 of the Criminal Law Article, the deduction described in subsection (a) of this~~
 24 ~~section shall be calculated at the rate of 5 days for each calendar month.]~~

25 ~~(2) THE DEDUCTION DESCRIBED IN SUBSECTION (A) OF THIS~~
 26 ~~SECTION SHALL BE CALCULATED AT THE RATE OF 5 DAYS FOR EACH CALENDAR~~
 27 ~~MONTH IF AN INMATE'S TERM OF CONFINEMENT INCLUDES A CONSECUTIVE OR~~
 28 ~~CONCURRENT SENTENCE FOR:~~

29 ~~(I) A CRIME OF VIOLENCE AS DEFINED IN § 14-101 OF THE~~
 30 ~~CRIMINAL LAW ARTICLE;~~

31 ~~(II) A CRIME OF MANUFACTURING, DISTRIBUTING,~~
 32 ~~DISPENSING, OR POSSESSING A CONTROLLED DANGEROUS SUBSTANCE IN~~

1 ~~VIOLETION OF §§ 5-602 THROUGH 5-609, § 5-612, OR § 5-613 OF THE CRIMINAL~~
2 ~~LAW ARTICLE; OR~~

3 ~~(III) A CRIME OF POSSESSING A REGULATED FIREARM BY A~~
4 ~~PERSON IN VIOLATION OF § 5-133(C) OF THE PUBLIC SAFETY ARTICLE.~~

5 ~~(e) A deduction under this section may not be allowed for a period during~~
6 ~~which an inmate does not receive credit for service of the inmate's term of~~
7 ~~confinement, including a period:~~

8 ~~(1) during which the inmate's sentence is stayed;~~

9 ~~(2) during which the inmate is not in the custody of the Commissioner~~
10 ~~because of escape; or~~

11 ~~(3) for which the Maryland Parole Commission has declined to grant~~
12 ~~credit after revocation of parole or mandatory supervision.~~

13 ~~Article Public Safety~~

14 ~~5-133.~~

15 ~~(a) This section supersedes any restriction that a local jurisdiction in the~~
16 ~~State imposes on the possession by a private party of a regulated firearm, and the~~
17 ~~State preempts the right of any local jurisdiction to regulate the possession of a~~
18 ~~regulated firearm.~~

19 ~~(b) A person may not possess a regulated firearm if the person:~~

20 ~~(1) has been convicted of a disqualifying crime;~~

21 ~~(2) has been convicted of a violation classified as a common law crime~~
22 ~~and received a term of imprisonment of more than 2 years;~~

23 ~~(3) is a fugitive from justice;~~

24 ~~(4) is a habitual drunkard;~~

25 ~~(5) is addicted to a controlled dangerous substance or is a habitual~~
26 ~~user;~~

27 ~~(6) suffers from a mental disorder as defined in § 10-101(f)(2) of the~~
28 ~~Health General Article and has a history of violent behavior against the person or~~
29 ~~another, unless the person has a physician's certificate that the person is capable of~~
30 ~~possessing a regulated firearm without undue danger to the person or to another;~~

~~(7) has been confined for more than 30 consecutive days to a facility as defined in § 10-101 of the Health — General Article, unless the person has a physician's certificate that the person is capable of possessing a regulated firearm without undue danger to the person or to another;~~

~~(8) except as provided in subsection (c) of this section, is a respondent against whom a current non ex parte civil protective order has been entered under § 4-506 of the Family Law Article; or~~

~~(9) if under the age of 30 years at the time of possession, has been adjudicated delinquent by a juvenile court for an act that would be a disqualifying crime if committed by an adult.~~

~~(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, § 5-606, § 5-607, § 5-608, § 5-609, § 5-612, § 5-613, or § 5-614 of the Criminal Law Article.~~

~~(2) A person who violates this subsection is guilty of a felony and on conviction is subject to imprisonment for not less than 5 years, no part of which may be suspended.~~

~~(3) A person sentenced under paragraph (1) of this subsection may not be eligible for parole.~~

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

~~(d) (1) Except as provided in paragraph (2) of this subsection, a person who is under the age of 21 years may not possess a regulated firearm or ammunition solely designed for a regulated firearm.~~

~~(2) Unless a person is otherwise prohibited from possessing a regulated firearm, this subsection does not apply to:~~

~~(i) the temporary transfer or possession of a regulated firearm or ammunition solely designed for a regulated firearm if the person is:~~

~~1. under the supervision of another who is at least 21 years old and who is not prohibited by State or federal law from possessing a firearm; and~~

~~2. acting with the permission of the parent or legal guardian of the transferee or person in possession;~~

1 ~~(ii) the transfer by inheritance of title, and not of possession, of~~
2 ~~a regulated firearm;~~

3 ~~(iii) a member of the armed forces of the United States or the~~
4 ~~National Guard while performing official duties;~~

5 ~~(iv) the temporary transfer or possession of a regulated firearm~~
6 ~~or ammunition solely designed for a regulated firearm if the person is:~~

7 ~~1. participating in marksmanship training of a~~
8 ~~recognized organization; and~~

9 ~~2. under the supervision of a qualified instructor;~~

10 ~~(v) a person who is required to possess a regulated firearm for~~
11 ~~employment and who holds a permit under Subtitle 3 of this title; or~~

12 ~~(vi) the possession of a firearm or ammunition for self-defense~~
13 ~~or the defense of others against a trespasser into the residence of the person in~~
14 ~~possession or into a residence in which the person in possession is an invited guest.~~

15 ~~(e) This section does not apply to a respondent transporting a regulated~~
16 ~~firearm if the respondent is carrying a civil protective order requiring the surrender of~~
17 ~~the regulated firearm and:~~

18 ~~(1) the regulated firearm is unloaded;~~

19 ~~(2) the respondent has notified the law enforcement unit, barracks, or~~
20 ~~station that the regulated firearm is being transported in accordance with the civil~~
21 ~~protective order; and~~

22 ~~(3) the respondent transports the regulated firearm directly to the law~~
23 ~~enforcement unit, barracks, or station.~~

24 (a) There is a Task Force on Diminution Credits.

25 (b) The Task Force consists of the following members:

26 (1) two members of the Senate of Maryland, including one member of
27 the minority party, appointed by the President of the Senate;

28 (2) two members of the House of Delegates, including one member of
29 the minority party, appointed by the Speaker of the House;

30 (3) the Secretary of Public Safety and Correctional Services, or the
31 Secretary's designee;

1 (4) the Maryland Public Defender, or the Public Defender's designee;

2 (5) the Maryland State's Attorneys' Association Coordinator, or the
3 Coordinator's designee;

4 (6) the Chair of the Maryland State Commission on Criminal
5 Sentencing Policy, or the Chair's designee; and

6 (7) the following individuals appointed by the Governor:

7 (i) a representative of a victim's advocacy group;

8 (ii) a representative of a local correctional facility in the State;

9 (iii) a representative of the Chiefs of Police Association;

10 (iv) a representative of the Maryland Sheriffs' Association;

11 (v) an elected State's Attorney in the State;

12 (vi) an attorney who practices criminal defense in the State;

13 (vii) a correctional officer; and

14 (viii) a representative of a criminal justice policy organization.

15 (c) The Governor shall designate the chair of the Task Force.

16 (d) The Governor's Office of Crime Control and Prevention shall provide staff
17 for the Task Force.

18 (e) A member of the Task Force may not receive:

19 (1) compensation as a member of the Task Force; or

20 (2) reimbursement for expenses.

21 (f) The Task Force shall:

22 (1) review the current policies, procedures, and laws governing
23 diminution credits in the State;

24 (2) review the national best practices in the area of diminution credits;

25 (3) make recommendations on ways to increase the understanding of
26 diminution credits; and

1 (4) make recommendations on ways to improve the use of diminution
2 credits in the State.

3 (g) On or before December 1, 2012, the Task Force shall report its findings
4 and recommendations to the Governor and, in accordance with § 2-1246 of the State
5 Government Article, the General Assembly.

6 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
7 October 1, 2011. It shall remain effective for a period of 1 year and 9 months and, at
8 the end of June 30, 2013, with no further action required by the General Assembly,
9 this Act shall be abrogated and of no further force and effect.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.