

SENATE BILL 44

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(PRE-FILED)

4lr1348
CF 4lr1288

By: **Senators Folden, Bailey, Carozza, Corderman, Gallion, Hershey, Jennings, Mautz, McKay, Ready, Salling, Simonaire, and West**

Requested: October 31, 2023

Introduced and read first time: January 10, 2024

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Safe Communities Act of 2024**

3 FOR the purpose of prohibiting the earning of diminution credits to reduce the term of
4 confinement of an incarcerated individual who is serving a sentence for murder in
5 the first degree or murder in the second degree in a State or local correctional facility;
6 prohibiting a deduction of diminution credits of more than a certain percentage of an
7 incarcerated individual's aggregate sentence for crimes of violence for an
8 incarcerated individual who is serving a sentence for a crime of violence; prohibiting
9 a judicial officer from authorizing the pretrial release of a defendant who is charged
10 with a crime of violence if the defendant has a pending charge for a certain crime or
11 was previously convicted within a certain number of years of a certain crime; and
12 generally relating to crimes of violence, diminution credits, and pretrial release.

13 BY repealing and reenacting, with amendments,
14 Article – Correctional Services
15 Section 3–702, 3–708, and 11–502
16 Annotated Code of Maryland
17 (2017 Replacement Volume and 2023 Supplement)
18 (As enacted by Chapter 721 of the Acts of the General Assembly of 2023)

19 BY repealing and reenacting, without amendments,
20 Article – Correctional Services
21 Section 3–707(a)
22 Annotated Code of Maryland
23 (2017 Replacement Volume and 2023 Supplement)
24 (As enacted by Chapter 721 of the Acts of the General Assembly of 2023)

25 BY adding to
26 Article – Correctional Services

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Section 11–507.1
Annotated Code of Maryland
(2017 Replacement Volume and 2023 Supplement)

BY repealing and reenacting, with amendments,
Article – Criminal Procedure
Section 5–202
Annotated Code of Maryland
(2018 Replacement Volume and 2023 Supplement)

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

Article – Correctional Services

3–702.

(a) Subject to subsections (b) [and], (c), **AND (D)** of this section, § 3–711 of this subtitle, and Title 7, Subtitle 5 of this article, an incarcerated individual committed to the custody of the Commissioner is entitled to a diminution of the incarcerated individuals' term of confinement as provided under this subtitle.

(b) An incarcerated individual who is serving a sentence for a violation of § 3–303 or § 3–304 of the Criminal Law Article involving a victim who is a child under the age of 16 years, or an incarcerated individual who is serving a sentence for a violation of § 3–305 or § 3–306 of the Criminal Law Article, as the sections existed before October 1, 2017, involving a victim who is a child under the age of 16 years, is not entitled to a diminution of the incarcerated individual's term of confinement as provided under this subtitle.

(c) An incarcerated individual who is serving a sentence for a violation of § 3–307 of the Criminal Law Article involving a victim who is a child under the age of 16 years is not entitled to a diminution of the incarcerated individual's term of confinement as provided under this subtitle, if the incarcerated individual was previously convicted of a violation of § 3–307 of the Criminal Law Article involving a victim who is a child under the age of 16 years.

(D) AN INCARCERATED INDIVIDUAL WHO IS SERVING A SENTENCE FOR A VIOLATION OF § 2–201 OR § 2–204 OF THE CRIMINAL LAW ARTICLE IS NOT ENTITLED TO A DIMINUTION OF THE INCARCERATED INDIVIDUAL'S TERM OF CONFINEMENT AS PROVIDED UNDER THIS SUBTITLE.

3–707.

(a) (1) Except as provided in paragraph (2) of this subsection, in addition to any other deductions allowed under this subtitle, an incarcerated individual may be allowed a deduction of up to 20 days from the incarcerated individual's term of confinement for each calendar month during which the incarcerated individual manifests satisfactory

1 progress in those special selected work projects or other special programs, including
2 recidivism reduction programming, designated by the Commissioner and approved by the
3 Secretary.

4 (2) The deduction described in paragraph (1) of this subsection shall be
5 calculated at the rate of up to 10 days for each calendar month, if an incarcerated
6 individual's term of confinement includes a consecutive or concurrent sentence for:

7 (i) a crime of violence, as defined in § 14–101 of the Criminal Law
8 Article;

9 (ii) a sexual offense for which registration is required under Title 11,
10 Subtitle 7 of the Criminal Procedure Article; or

11 (iii) a crime of manufacturing, distributing, dispensing, or possessing
12 a controlled dangerous substance in violation of § 5–612 or § 5–613 of the Criminal Law
13 Article.

14 3–708.

15 (A) Except as provided in § 3–706.1 of this subtitle, and notwithstanding any
16 other provision of this subtitle, an incarcerated individual may not be allowed a deduction
17 under this subtitle of more than:

18 (1) 20 days for a calendar month for an incarcerated individual described
19 in [§ 3–707(a)(2)] **§ 3–707(A)(2)(II) AND (III)** of this subtitle; and

20 (2) 30 days for a calendar month for all other incarcerated individuals.

21 (B) **AN INCARCERATED INDIVIDUAL WHO IS SERVING A SENTENCE FOR A**
22 **CRIME OF VIOLENCE, AS DEFINED IN § 14–101 OF THE CRIMINAL LAW ARTICLE, MAY**
23 **NOT BE ALLOWED A DEDUCTION UNDER THIS SUBTITLE THAT AMOUNTS TO A**
24 **NUMBER OF DAYS THAT IS GREATER THAN 10% OF THE INCARCERATED**
25 **INDIVIDUAL'S AGGREGATE SENTENCE FOR CRIMES OF VIOLENCE.**

26 11–502.

27 (a) Except as provided in subsections (b) [and], (c), **AND (D)** of this section, an
28 incarcerated individual who has been sentenced to a term of imprisonment shall be allowed
29 deductions from the incarcerated individual's term of confinement as provided under this
30 subtitle for any period of presentence or postsentence confinement in a local correctional
31 facility.

32 (b) (1) An incarcerated individual who is serving a sentence for a violation of
33 § 3–303 or § 3–304 of the Criminal Law Article involving a victim who is a child under the
34 age of 16 years, or an incarcerated individual who is serving a sentence for a violation of §

3–305 or § 3–306 of the Criminal Law Article, as the sections existed before October 1, 2017, involving a victim who is a child under the age of 16 years, may not be allowed deductions from the incarcerated individual’s term of confinement as provided under this subtitle for any period of presentence or postsentence confinement in a local correctional facility.

(2) This subsection may not be construed to require an incarcerated individual to serve a longer sentence of confinement than is authorized by the statute under which the incarcerated individual was convicted.

(c) (1) An incarcerated individual who is serving a sentence for a violation of § 3–307 of the Criminal Law Article involving a victim who is a child under the age of 16 years, who has previously been convicted of violating § 3–307 of the Criminal Law Article involving a victim who is a child under the age of 16 years, may not be allowed deductions from the incarcerated individual’s term of confinement as provided under this subtitle for any period of presentence or postsentence confinement in a local correctional facility.

(2) This subsection may not be construed to require an incarcerated individual to serve a longer sentence of confinement than is authorized by the statute under which the incarcerated individual was convicted.

(D) (1) AN INCARCERATED INDIVIDUAL WHO IS SERVING A SENTENCE FOR A VIOLATION OF § 2–201 OR § 2–204 OF THE CRIMINAL LAW ARTICLE MAY NOT BE ALLOWED DEDUCTIONS FROM THE INCARCERATED INDIVIDUAL’S TERM OF CONFINEMENT AS PROVIDED UNDER THIS SUBTITLE FOR ANY PERIOD OF PRESENTENCE OR POSTSENTENCE CONFINEMENT IN A LOCAL CORRECTIONAL FACILITY.

(2) THIS SUBSECTION MAY NOT BE CONSTRUED TO REQUIRE AN INCARCERATED INDIVIDUAL TO SERVE A LONGER SENTENCE OF CONFINEMENT THAN IS AUTHORIZED BY THE STATUTE UNDER WHICH THE INCARCERATED INDIVIDUAL WAS CONVICTED.

11–507.1.

AN INCARCERATED INDIVIDUAL WHO IS SERVING A SENTENCE FOR A CRIME OF VIOLENCE, AS DEFINED IN § 14–101 OF THE CRIMINAL LAW ARTICLE, MAY NOT BE ALLOWED A DEDUCTION UNDER THIS SUBTITLE THAT AMOUNTS TO A NUMBER OF DAYS THAT IS GREATER THAN 10% OF THE INCARCERATED INDIVIDUAL’S AGGREGATE SENTENCE FOR CRIMES OF VIOLENCE.

Article – Criminal Procedure

5–202.

(a) A District Court commissioner may not authorize pretrial release for a

defendant charged with escaping from a correctional facility or any other place of confinement in the State.

(b) (1) A District Court commissioner may not authorize the pretrial release of a defendant charged as a drug kingpin under § 5–613 of the Criminal Law Article.

(2) **[A] EXCEPT AS PROVIDED IN SUBSECTION (H) OF THIS SECTION, A** judge may authorize the pretrial release of a defendant charged as a drug kingpin on suitable bail and on any other conditions that will reasonably ensure that the defendant will not flee or pose a danger to another person or the community.

(3) There is a rebuttable presumption that, if released, a defendant charged as a drug kingpin will flee and pose a danger to another person or the community.

(c) (1) A District Court commissioner may not authorize the pretrial release of a defendant charged with a crime of violence if the defendant has been previously convicted:

(i) in this State of a crime of violence;

(ii) in any other jurisdiction of a crime that would be a crime of violence if committed in this State; or

(iii) of an offense listed in subsection (f)(1) of this section.

(2) (i) **[A] EXCEPT AS PROVIDED IN SUBSECTION (H) OF THIS SECTION, A** judge may authorize the pretrial release of a defendant described in paragraph (1) of this subsection on:

1. suitable bail;

2. any other conditions that will reasonably ensure that the defendant will not flee or pose a danger to another person or the community; or

3. both bail and other conditions described under item 2 of this subparagraph.

(ii) When a defendant described in paragraph (1) of this subsection is presented to the court under Maryland Rule 4–216(f), the judge shall order the continued detention of the defendant **IN ACCORDANCE WITH SUBSECTION (H) OF THIS SECTION** **OR** if the judge determines that neither suitable bail nor any condition or combination of conditions will reasonably ensure that the defendant will not flee or pose a danger to another person or the community before the trial.

(3) There is a rebuttable presumption that a defendant described in paragraph (1) of this subsection will flee and pose a danger to another person or the community.

(d) (1) A District Court commissioner may not authorize the pretrial release of a defendant charged with committing one of the following crimes while the defendant was released on bail or personal recognizance for a pending prior charge of committing one of the following crimes:

(i) aiding, counseling, or procuring arson in the first degree under § 6–102 of the Criminal Law Article;

(ii) arson in the second degree or attempting, aiding, counseling, or procuring arson in the second degree under § 6–103 of the Criminal Law Article;

(iii) burglary in the first degree under § 6–202 of the Criminal Law Article;

(iv) burglary in the second degree under § 6–203 of the Criminal Law Article;

(v) burglary in the third degree under § 6–204 of the Criminal Law Article;

(vi) causing abuse to a child under § 3–601 or § 3–602 of the Criminal Law Article;

(vii) a crime that relates to a destructive device under § 4–503 of the Criminal Law Article;

(viii) a crime that relates to a controlled dangerous substance under §§ 5–602 through 5–609 or § 5–612 or § 5–613 of the Criminal Law Article;

(ix) manslaughter by vehicle or vessel under § 2–209 of the Criminal Law Article; and

(x) a crime of violence.

(2) A defendant under this subsection remains ineligible to give bail or be released on recognizance on the subsequent charge until all prior charges have finally been determined by the courts.

(3) **[A] EXCEPT AS PROVIDED IN SUBSECTION (H) OF THIS SECTION, A** judge may authorize the pretrial release of a defendant described in paragraph (1) of this subsection on suitable bail and on any other conditions that will reasonably ensure that the defendant will not flee or pose a danger to another person or the community.

(4) There is a rebuttable presumption that a defendant described in paragraph (1) of this subsection will flee and pose a danger to another person or the community if released before final determination of the prior charge.

(e) (1) A District Court commissioner may not authorize the pretrial release of a defendant charged with violating:

(i) the provisions of a temporary protective order described in § 4–505(a)(2)(i) of the Family Law Article or the provisions of a protective order described in § 4–506(d)(1) of the Family Law Article that order the defendant to refrain from abusing or threatening to abuse a person eligible for relief; or

(ii) the provisions of an order for protection, as defined in § 4–508.1 of the Family Law Article, issued by a court of another state or of a Native American tribe that order the defendant to refrain from abusing or threatening to abuse a person eligible for relief, if the order is enforceable under § 4–508.1 of the Family Law Article.

(2) **[A] EXCEPT AS PROVIDED IN SUBSECTION (H) OF THIS SECTION, A** judge may allow the pretrial release of a defendant described in paragraph (1) of this subsection on:

(i) suitable bail;

(ii) any other conditions that will reasonably ensure that the defendant will not flee or pose a danger to another person or the community; or

(iii) both bail and other conditions described under item (ii) of this paragraph.

(3) When a defendant described in paragraph (1) of this subsection is presented to the court under Maryland Rule 4–216(f), the judge shall order the continued detention of the defendant **IN ACCORDANCE WITH SUBSECTION (H) OF THIS SECTION** **OR** if the judge determines that neither suitable bail nor any condition or combination of conditions will reasonably ensure that the defendant will not flee or pose a danger to another person or the community before the trial.

(f) (1) A District Court commissioner may not authorize the pretrial release of a defendant charged with one of the following crimes if the defendant has previously been convicted of a crime of violence or one of the following crimes:

(i) wearing, carrying, or transporting a handgun under § 4–203 of the Criminal Law Article;

(ii) use of a handgun or an antique firearm in commission of a crime under § 4–204 of the Criminal Law Article;

(iii) violating prohibitions relating to assault weapons under § 4–303 of the Criminal Law Article;

(iv) use of a machine gun in a crime of violence under § 4–404 of the Criminal Law Article;

(v) use of a machine gun for an aggressive purpose under § 4–405 of the Criminal Law Article;

(vi) use of a weapon as a separate crime under § 5–621 of the Criminal Law Article;

(vii) possession of a regulated firearm under § 5–133 of the Public Safety Article;

(viii) transporting a regulated firearm for unlawful sale or trafficking under § 5–140 of the Public Safety Article; or

(ix) possession of a rifle or shotgun by a person with a mental disorder under § 5–205 of the Public Safety Article.

(2) (i) **[A] EXCEPT AS PROVIDED IN SUBSECTION (H) OF THIS SECTION,** A judge may authorize the pretrial release of a defendant described in paragraph (1) of this subsection on:

1. suitable bail;

2. any other conditions that will reasonably ensure that the defendant will not flee or pose a danger to another person or the community; or

3. both bail and other conditions described under item 2 of this subparagraph.

(ii) When a defendant described in paragraph (1) of this subsection is presented to the court under Maryland Rule 4–216(f), the judge shall order the continued detention of the defendant **IN ACCORDANCE WITH SUBSECTION (H) OF THIS SECTION** **OR** if the judge determines that neither suitable bail nor any condition or combination of conditions will reasonably ensure that the defendant will not flee or pose a danger to another person or the community before the trial.

(3) There is a rebuttable presumption that a defendant described in paragraph (1) of this subsection will flee and pose a danger to another person or the community.

(g) (1) A District Court commissioner may not authorize the pretrial release of a defendant who:

(i) is registered, or the commissioner knows is required to register, under Title 11, Subtitle 7 of this article; or

(ii) is a sex offender who is required to register by another jurisdiction, a federal, military, or tribal court, or a foreign government.

(2) (i) **[A] EXCEPT AS PROVIDED IN SUBSECTION (H) OF THIS SECTION,** A judge may authorize the pretrial release of a defendant described in paragraph (1) of this subsection on:

1. suitable bail;
2. any other conditions that will reasonably ensure that the defendant will not flee or pose a danger to another person or the community; or
3. both bail and other conditions described under item 2 of this subparagraph.

(ii) When a defendant described in paragraph (1) of this subsection is presented to the court under Maryland Rule 4–216(f), the judge shall order the continued detention of the defendant **IN ACCORDANCE WITH SUBSECTION (H) OF THIS SECTION** **OR** if the judge determines that neither suitable bail nor any condition or combination of conditions will reasonably ensure that the defendant will not flee or pose a danger to another person or the community before the trial.

(3) There is a rebuttable presumption that a defendant described in paragraph (1) of this subsection will flee and pose a danger to another person or the community.

(H) A JUDICIAL OFFICER MAY NOT AUTHORIZE THE PRETRIAL RELEASE OF A DEFENDANT WHO IS CHARGED WITH A CRIME OF VIOLENCE IF THE DEFENDANT:

(1) HAS A PENDING CHARGE FOR:

(I) A CRIME OF VIOLENCE IN THE STATE; OR

(II) A CRIME IN ANY OTHER JURISDICTION THAT WOULD BE A CRIME OF VIOLENCE IF COMMITTED IN THE STATE; OR

(2) WAS CONVICTED WITHIN THE PREVIOUS 10 YEARS:

(I) IN THE STATE OF A CRIME OF VIOLENCE; OR

(II) IN ANY OTHER JURISDICTION OF A CRIME THAT WOULD BE A CRIME OF VIOLENCE IF COMMITTED IN THE STATE.

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 offense committed before the effective date of this Act.

1 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2024.