

## Maryland Justice Reinvestment Act of 2016

## Senate Bill 1005

## Permits Possible Retroactive Reduction of Certain Mandatory Minimum Drug Sentences

(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)** A court may [depart from] **IMPOSE** 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] **ONLY IF THE STATE SHOWS** 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 **NOT** result in substantial injustice to the defendant; and

(2) the mandatory minimum sentence is [not] necessary for the protection of the public.

**(B)** **A COURT SHALL STATE ON THE RECORD THE REASONS FOR DEPARTING FROM A MANDATORY MINIMUM SENTENCE.**

**(C)** **(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, 2016, FOR A VIOLATION OF §§ 5–602 THROUGH 5–606 OF THIS SUBTITLE MAY APPLY TO THE COURT TO MODIFY OR REDUCE THE MANDATORY MINIMUM SENTENCE AS PROVIDED IN MARYLAND RULE 4–345, REGARDLESS OF WHETHER THE DEFENDANT FILED A TIMELY MOTION FOR RECONSIDERATION OR A MOTION FOR RECONSIDERATION WAS DENIED BY THE COURT.**

**(2)** **THE COURT MAY MODIFY THE SENTENCE AND DEPART FROM THE MANDATORY MINIMUM SENTENCE AS PROVIDED IN SUBSECTION (A) OF THIS SECTION.**

1           **(3) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS**  
2 **PARAGRAPH, AN APPLICATION FOR A HEARING UNDER PARAGRAPH (1) OF THIS**  
3 **SUBSECTION SHALL BE SUBMITTED TO THE COURT OR REVIEW PANEL ON OR**  
4 **BEFORE SEPTEMBER 30, 2017.**

5           **(II) THE COURT MAY CONSIDER AN APPLICATION AFTER**  
6 **SEPTEMBER 30, 2017, ONLY FOR GOOD CAUSE SHOWN.**

7           **(III) THE COURT SHALL NOTIFY THE STATE’S ATTORNEY OF A**  
8 **REQUEST FOR A HEARING.**

9           **(IV) A PERSON MAY NOT FILE MORE THAN ONE APPLICATION**  
10 **FOR A HEARING UNDER PARAGRAPH (1) OF THIS SUBSECTION FOR A MANDATORY**  
11 **MINIMUM SENTENCE FOR A VIOLATION OF §§ 5-602 THROUGH 5-606 OF THIS**  
12 **SUBTITLE.**

13 5-612.

14       (a) A person may not manufacture, distribute, dispense, or possess:

15           (1) 50 pounds or more of marijuana;

16           (2) 448 grams or more of cocaine;

17           (3) 448 grams or more of any mixture containing a detectable amount of  
18 cocaine;

19           (4) [50] 448 grams or more of cocaine base, commonly known as “crack”;

20           (5) 28 grams or more of morphine or opium or any derivative, salt, isomer,  
21 or salt of an isomer of morphine or opium;

22           (6) any mixture containing 28 grams or more of morphine or opium or any  
23 derivative, salt, isomer, or salt of an isomer of morphine or opium;

24           (7) 1,000 dosage units or more of lysergic acid diethylamide;

25           (8) any mixture containing the equivalent of 1,000 dosage units of lysergic  
26 acid diethylamide;

27           (9) 16 ounces or more of phencyclidine in liquid form;

28           (10) 448 grams or more of any mixture containing phencyclidine;

29           (11) 448 grams or more of methamphetamine; or