



Proposed Revisions to the Maryland Sentencing Guidelines Corresponding to the Justice Reinvestment Act

Effective October 1, 2017

This document outlines the penalty structure revisions pursuant to the Justice Reinvestment Act (JRA; Chapter 515 of the laws of Maryland 2016, SB 1005) and the corresponding proposed revisions to the Maryland sentencing guidelines. The following proposed revisions to the Maryland sentencing guidelines were approved by the Maryland State Commission on Criminal Sentencing Policy (MSCCSP) at its September 20, 2016 meeting.

The revised penalties and corresponding proposed revisions to the sentencing guidelines are displayed in RED text. The revised penalties outlined in this document will be enacted effective October 1, 2017. The proposed revisions to the sentencing guidelines are expected to be adopted effective October 1, 2017 pending the promulgation of these proposed revisions through the Code of Maryland Regulations (COMAR) adoption process.

This document is presented for information purposes only. The proposed changes do not take effect until they are officially enacted through the COMAR adoption process.



Drug Offenses						
Offense	Source	Level	Max	Offense Type	Seriousness Category	Fine
CDS and Paraphernalia Possession—non-marijuana, 1 st conviction	CR, § 5-601(c)(1)(i)	Misd.	<u>1 Year</u> 4 Years	Drug	<u>VII</u> V	<u>\$5,000</u> \$25,000
CDS and Paraphernalia Possession—non-marijuana, 2 nd or 3 rd conviction	CR, § 5-601(c)(1)(ii)	Misd.	<u>18 Months</u> 4 Years	Drug	<u>VII</u> V	<u>\$5,000</u> \$25,000
CDS and Paraphernalia Possession—non-marijuana, 4 th and subsequent convictions	CR, § 5-601(c)(1)(iii)	Misd.	<u>2 Years</u> 4 Years	Drug	<u>VII</u> V	<u>\$5,000</u> \$25,000
CDS and Paraphernalia Possession—marijuana	CR, § 5-601(c)(2)(i)	Misd.	<u>6 Months</u> 1 Year	Drug	<u>No change</u> VII	\$1,000
CDS and Paraphernalia Unlawful distribution, manufacture, etc—narcotics and hallucinogenics (e.g., PCP, heroin, cocaine, LSD, oxycodone, and methadone)	CR, § 5-608(a) CR, § 5-609(a)	Felony	20 Years	Drug	<u>No change</u> IIIB	CR, 5-608(a)= <u>\$15,000</u> \$25,000 CR, 5-609(a)= <u>\$15,000</u> \$20,000
CDS and Paraphernalia Unlawful distribution, manufacture, etc—narcotics and hallucinogenics, subsequent	CR, § 5-608(b) CR, § 5-609(b)	Felony	20 Years <u>No MM</u>	Drug	<u>No change</u> IIIB	<u>\$15,000</u> \$100,000
CDS and Paraphernalia Unlawful distribution, manufacture, etc—narcotics and hallucinogenics, subsequent	CR, § 5-608(c) CR, § 5-609(c)	Felony	25 Years <u>No MM</u>	Drug	<u>No change</u> IIIB	<u>\$25,000</u> \$100,000
CDS and Paraphernalia Unlawful distribution, manufacture, etc—narcotics and hallucinogenics, subsequent	CR, § 5-608(d) CR, § 5-609(d)	Felony	40 Years <u>No MM</u>	Drug	<u>No change</u> IIIB	<u>\$25,000</u> \$100,000



Offense	Source	Level	Max	Offense Type	Seriousness Category	Fine
CDS and Paraphernalia Distribution-Unlawful distribution, manufacture, etc—MDMA/ecstasy 750 grams or more	CR, § 5-609(a)	Felony	20 Years	Drug	<u>No change</u> IIIA	\$15,000 \$20,000
CDS and Paraphernalia Distribution-Unlawful distribution, manufacture, etc—MDMA/ecstasy 750 grams or more, subsequent	CR, § 5-609(b)	Felony	20 Years <u>No MM</u>	Drug	<u>No change</u> IIIA	\$15,000 \$100,000
CDS and Paraphernalia Unlawful distribution, manufacture, etc—MDMA/ecstasy 750 grams or more, subsequent	CR, § 5-609(c)	Felony	25 Years <u>No MM</u>	Drug	<u>No change</u> IIIA	\$25,000 \$100,000
CDS and Paraphernalia Unlawful distribution, manufacture, etc—MDMA/ecstasy 750 grams or more, subsequent	CR, § 5-609(d)	Felony	40 Years <u>No MM</u>	Drug	<u>No change</u> IIIA	\$25,000 \$100,000
CDS and Paraphernalia Unlawful distribution, manufacture, etc—non-narcotics, subsequent ¹	CR, §5-607(a)	[Felony]	5 Years <u>No MM</u>	Drug	<u>No change</u> IV	\$15,000
CDS and Paraphernalia Manufacture, distribute, dispense, or possess certain Schedule I or II controlled dangerous substances, large amounts as specified in CR, § 5-612 ²	CR, § 5-612	Felony	20 Years MM=5 Years	Drug	<u>No change</u> IIIB	\$100,000

¹ Pursuant to the JRA, the 2-year mandatory minimum for the subsequent unlawful distribution, manufacture, etc. of non-narcotics (CR, § 5-607(b)) is repealed from the laws of Maryland. The current penalty for the unlawful distribution, manufacture, etc. of non-narcotics, outlined in CR, § 5-607(a), will remain in effect on and after October 1, 2017 for both first-time and subsequent offenders.

² The JRA increases the amount of crack cocaine to be the same as the amount of powder cocaine that is required to trigger enhanced penalties for defendants convicted under CR, § 5-612 (i.e., 448 grams). Otherwise the penalty for a violation of CR, §5-612 remains the same.



Sentencing Enhancement	Source	Application of Enhancement
Subsequent Offender Enhancement	CR, § 5-905	<p><u>No change to the sentencing guidelines</u></p> <p>Currently, a defendant convicted of a subsequent drug crime, under Title 5 of the Criminal Law Article, is subject to a term of imprisonment twice that otherwise authorized; twice the fine otherwise authorized; or both (CR, § 5-905). The JRA limits the application of CR, § 5-905 for a defendant whose prior and subsequent convictions were for a violation of CR, §§ 5-601 through 5-606 to a defendant who was also previously convicted of a crime of violence as defined in CR, § 14-101. CR, § 5-905 is referred to in the Maryland Sentencing Guidelines Manual as the “doubling enhancement,” and allows for the calculated guidelines range to be doubled for a defendant convicted of a subsequent drug offense under CR, § 5-905.</p>



Revision to the Definition of Corrections Options

Revision #1

MSGM ¶ 2, Definitions:

[Correctional] **Corrections** Options ¹

- Home detention;
- A corrections options program established under law which requires the individual to participate in home detention, inpatient treatment, or other similar programs involving terms and conditions that constitute the equivalent of confinement;
- Inpatient drug or alcohol counseling under Health General Article (HG), Title 8, Subtitle 5, Annotated Code of Maryland; [or]
- Participation in a drug court or HIDTA substance abuse treatment program[.]; or
- **A sentence, with required substance abuse treatment, for the possession, administration, obtainment, etc. of controlled dangerous substances (CDS) currently outlined in CR, § 5-601(c) and pursuant to CR, § 5-601(e)(3).**¹
- [Correctional] **Corrections** options includes programs established by the State Division of Correction, provided that the program meets the Commission's criteria, as described above.

¹ **Before imposing a sentence for the possession, administration, obtainment, etc. of a CDS under CR, § 5-601(c), the court may order the Department of Health and Mental Hygiene (DHMH) or a designee to conduct an assessment of the defendant for substance use disorder. If a substance use disorder assessment is ordered, the court shall consider the results of the assessment when imposing a sentence under CR, § 5-601(c) and suspend the execution of the sentence, order probation and, if the assessment shows that the defendant is in need of substance abuse treatment, require the DHMH or the designee to provide the medically appropriate level of treatment; or the court may impose a term of imprisonment and order the DOC or local correctional facility to facilitate the medically appropriate level of treatment. (CR, § 5-601(e)).**

Revision #2

MSGM ¶ 12.4, Corrections Options Program:

Based on the definition provided in chapter 2, the person completing the sentencing guidelines worksheet shall record if the offender was sentenced to a [C]corrections [O]options program. Please specify whether the offender was ordered to participate in drug court treatment (yes/no) or any other [Correctional] **Corrections** [O]options program, such as home detention **or a sentence, with required substance abuse treatment, for the possession, administration, obtainment, etc. of controlled dangerous substances currently outlined in CR, § 5-601(c) and pursuant to CR, § 5-601(e)(3)** (yes/no).



PROPERTY OFFENSES						
Offense	Source	Level	Max	Offense Type	Seriousness Category	Fine
Theft, Crimes Involving Felony theft or theft-scheme, \$100,000 or greater	CR, § 7-104(g)(1)(iii)	Felony	<u>20 Years</u> 25 Years	Property	<u>III</u> II	\$25,000
Theft, Crimes Involving Felony theft or theft-scheme, at least [\$10,000] <u>\$25,000</u> but less than \$100,000	CR, § 7-104(g)(1)(ii)	Felony	<u>10 Years</u> 15 Years	Property	<u>V</u> IV	\$15,000
Theft, Crimes Involving Felony theft or theft-scheme, at least [\$1,000] <u>\$1,500</u> but less than [\$10,000] <u>\$25,000</u>	CR, § 7-104(g)(1)(i)	Felony	<u>5 Years</u> 10 Years	Property	<u>VI</u> V	\$10,000
Theft, Crimes Involving Misdemeanor theft or theft-scheme, <u>at least \$100 but less than [\$1,000] \$1,500</u> , 1 st conviction	CR, § 7-104(g)(2)(i)(1)	Misd.	<u>6 Months</u> 18 Months	Property	<u>No change</u> VII	\$500
Theft, Crimes Involving Misdemeanor theft or theft-scheme, <u>at least \$100 but less than [\$1,000] \$1,500</u> , 2 nd and subsequent convictions	CR, § 7-104(g)(2)(i)(2)	Misd.	<u>1 Year</u> 18 Months	Property	<u>No change</u> VII	\$500
Theft, Crimes Involving Misdemeanor theft or theft-scheme, less than [\$1,000] <u>\$1,500</u> , [3 rd] 5 th and subsequent convictions	CR, § 7-104(g)(4)	Misd.	5 Years	Property	<u>No change</u> VI	\$5,000
Bad Check Felony bad check, \$100,000 or greater	CR, § 8-103 CR, § 8-106(a)(3)	Felony	<u>20 Years</u> 25 Years	Property	<u>III</u> V	\$25,000
Bad Check Felony bad check, at least [\$10,000] <u>\$25,000</u> but less than \$100,000	CR, § 8-103 CR, § 8-106(a)(2)	Felony	<u>10 Years</u> 15 Years	Property	<u>No change</u> V	\$15,000
Bad Check Felony bad check, at least [\$1,000] <u>\$1,500</u> but less than [\$10,000] <u>\$25,000</u>	CR, § 8-103 CR, § 8-106(a)(1)	Felony	<u>5 Years</u> 10 Years	Property	<u>VI</u> V	\$10,000
Bad Check Misdemeanor bad check, <u>at least \$100 but less than [\$1,000] \$1,500</u>	CR, § 8-103 CR, § 8-106(c)	Misd.	<u>1 Year</u> 18 Months	Property	<u>No change</u> VII	\$500



Offense	Source	Level	Max	Offense Type	Seriousness Category	Fine
Bad Check Multiple bad checks within a 30-day period, each [less than \$1,000] <u>at least \$1,500 but less than \$25,000</u> and totaling [\$1,000 or more] <u>at least \$1,500 but less than \$25,000</u>	CR, § 8-103 CR, § 8-106(b)	Felony	<u>5 Years</u> 10 Years	Property	<u>VI</u> V	\$10,000
Credit Card Crimes Felony credit card crimes, \$100,000 or greater	CR, § 8-206(c)(1)(iii) CR, § 8-207(b)(1)(iii) CR, § 8-209(b)(1)(iii)	Felony	<u>20 Years</u> 25 Years	Property	<u>III</u> V	\$25,000
Credit Card Crimes Felony credit card crimes, at least [\$10,000] <u>\$25,000</u> but less than \$100,000	CR, § 8-206(c)(1)(ii) CR, § 8-207(b)(1)(ii) CR, § 8-209(b)(1)(ii)	Felony	<u>10 Years</u> 15 Years	Property	<u>No change</u> V	\$15,000
Credit Card Crimes Felony credit card crimes, at least [\$1,000] <u>\$1,500</u> but less than [\$10,000] <u>\$25,000</u>	CR, § 8-206(c)(1)(i) CR, § 8-207(b)(1)(i) CR, § 8-209(b)(1)(i)	Felony	<u>5 Years</u> 10 Years	Property	<u>VI</u> V	\$10,000
Credit Card Crimes Misdemeanor credit card crimes, <u>at least \$100 but less than [\$1,000] \$1,500</u>	CR, § 8-206(c)(2) CR, § 8-207(b)(2) CR, § 8-209(b)(2)	Misd.	<u>1 Year</u> 18 Months	Property	<u>No change</u> VII	\$500
Credit Card Crimes Misdemeanor credit card crimes, [not exceeding] <u>less than \$100</u>	CR, § 8-206(c)(3) CR, § 8-207(b)(3) CR, § 8-209(b)(3)	Misd.	90 Days	Property	<u>No change</u> VII	\$500
Identity Fraud Possess, obtain personally identifying information or willfully assume the identity of another, benefit \$100,000 or greater	CR, § 8-301(b), (c) CR, § 8-301(g)(1)(iii) (penalty)	Felony	<u>20 Years</u> 25 Years	Property	<u>III</u> II	\$25,000



Offense	Source	Level	Max	Offense Type	Seriousness Category	Fine
Identity Fraud Possess, obtain personally identifying information or willfully assume the identity of another, benefit at least [\$10,000] \$25,000 but less than \$100,000	CR, § 8-301(b), (c) CR, § 8-301(g)(1)(ii) (penalty)	Felony	10 Years 15 Years	Property	V IV	\$15,000
Identity Fraud Possess, obtain personally identifying information or willfully assume the identity of another, benefit at least [\$1,000] \$1,500 but less than [\$10,000] \$25,000	CR, § 8-301(b), (c) CR, § 8-301(g)(1)(i) (penalty)	Felony	5 Years 10 Years	Property	VI V	\$10,000
Identity Fraud Possess, obtain personally identifying information or willfully assume the identity of another, benefit at least \$100 but less than [\$1,000] \$1,500	CR, § 8-301(b), (c) CR, § 8-301(g)(2) (penalty)	Misd.	1 Year 18 Months	Property	No change VII	\$500
Identity Fraud Use a re-encoder or skimming device for purpose of identity theft, benefit \$100,000 or greater	CR, § 8-301(d) CR, § 8-301(g)(1)(iii) (penalty)	Felony	20 Years 25 Years	Property	III II	\$25,000
Identity Fraud Use a re-encoder or skimming device for purpose of identity theft, benefit at least [\$10,000] \$25,000 but less than \$100,000	CR, § 8-301(d) CR, § 8-301(g)(1)(ii) (penalty)	Felony	10 Years 15 Years	Property	V IV	\$15,000
Identity Fraud Use a re-encoder or skimming device for purpose of identity theft, benefit at least [\$1,000] \$1,500 but less than [\$10,000] \$25,000	CR, § 8-301(d) CR, § 8-301(g)(1)(i) (penalty)	Felony	5 Years 10 Years	Property	VI V	\$10,000
Identity Fraud Use a re-encoder or skimming device for purpose of identity theft, benefit at least \$100 but less than [\$1,000] \$1,500	CR, § 8-301(d) CR, § 8-301(g)(2) (penalty)	Misd.	1 Year 18 Months	Property	No change VII	\$500



Offense	Source	Level	Max	Offense Type	Seriousness Category	Fine
Identity Fraud Intent to manufacture, distribute, or dispense personally identifying information	CR, § 8-301(g)(3)	Felony	<u>10 Years</u> 15 Years	Property	<u>No change</u> V	\$25,000
Identity Fraud Falsely represent self as another person	CR, § 8-301(c)(1), (f) CR, § 8-301(g)(4) (penalty)	Misd.	<u>1 Year</u> 18 Months	Property	<u>No change</u> VII	\$500
Identity Fraud Use an interactive computer service to disclose personal identifying information of an individual in order to annoy, threaten, embarrass, or harass	CR, § 8-301(b-1) CR, § 8-301(g)(4) (penalty)	Misd.	<u>1 Year</u> 18 Months	Property	<u>No change</u> VII	\$500
Identity Fraud Possess, obtain, or help another obtain a re-encoder or skimming device for purpose of identity theft	CR, § 8-301(e) CR, § 8-301(g)(4) (penalty)	Misd.	<u>1 Year</u> 18 Months	Property	<u>No change</u> VII	\$500
Public Fraud State health plan fraud, [\$1,000] <u>\$1,500</u> or greater	CR, § 8-509 CR, § 8-510 CR, § 8-511 CR, § 8-512 CR, § 8-513 CR, § 8-514 CR, § 8-515 CR, § 8-516(c) (penalty)	Felony	5 Years	Property	<u>No change</u> V	\$100,000
Public Fraud State health plan fraud, less than [\$1,000] <u>\$1,500</u>	CR, § 8-509 CR, § 8-510 CR, § 8-511 CR, § 8-512 CR, § 8-513 CR, § 8-514 CR, § 8-515 CR, § 8-516(d) (penalty)	Misd.	3 Years	Property	<u>No change</u> VII	\$50,000
Counterfeiting Trademark counterfeiting, [\$1,000] <u>\$1,500</u> or greater	CR, § 8-611(c)	Felony	<u>10 Years</u> 15 Years	Property	<u>No change</u> V	\$10,000



Offense	Source	Level	Max	Offense Type	Seriousness Category	Fine
Counterfeiting Trademark counterfeiting, less than [\$1,000] <u>\$1,500</u>	CR, § 8-611(d)	Misd.	<u>1 Year</u> 18 Months	Property	<u>No change</u> VII	<u>\$1,000</u> 1 st conviction= \$1,000 2 nd and subsequent convictions= \$5,000
Fraud, Financial Crimes Against Vulnerable Adults Obtain property of vulnerable adult or an individual at least 68 years old by deception, intimidation, or undue influence, \$100,000 or greater	CR, § 8-801(c)(1)(iii)	Felony	<u>20 Years</u> 25 Years	Property	<u>III</u> II	\$25,000
Fraud, Financial Crimes Against Vulnerable Adults Obtain property of vulnerable adult or an individual at least 68 years old by deception, intimidation, or undue influence, at least [\$10,000] <u>\$25,000</u> but less than \$100,000	CR, § 8-801(c)(1)(ii)	Felony	<u>10 Years</u> 15 Years	Property	<u>V</u> IV	\$15,000
Fraud, Financial Crimes Against Vulnerable Adults Obtain property of vulnerable adult or an individual at least 68 years old by deception, intimidation, or undue influence, at least [\$1,000] <u>\$1,500</u> but less than [\$10,000] <u>\$25,000</u>	CR, § 8-801(c)(1)(i)	Felony	<u>5 Years</u> 10 Years	Property	<u>VI</u> V	\$10,000
Fraud, Financial Crimes Against Vulnerable Adults Obtain property of vulnerable adult or an individual at least 68 years old by deception, intimidation, or undue influence, less than [\$1,000] <u>\$1,500</u>	CR, § 8-801(c)(2)	Misd.	<u>1 Year</u> 18 Months	Property	<u>No change</u> VII	\$500



Offense	Source	Level	Max	Offense Type	Seriousness Category	Fine
Motor Vehicle Offense Driving while license is suspended under certain provisions in this or another state ³	TR, § 27-101 (gg) (penalty) TR, § 16-303 (h), (i)	Misd.	<u>No incarceration</u> 2 Months	<u>Not assigned</u> Property	<u>Not assigned</u> Default to VII	\$500

PERSON OFFENSES

Offense	Source	Level	Max	Offense Type	Seriousness Category	Fine
Murder 2 nd degree	CR, § 2-204	Felony	<u>40 Years</u> 30 Years	Person	<u>No change</u> II	
Abuse and Other Offensive Conduct Child Abuse—physical, with death, victim younger than 13 years old	CR, § 3-601(b)(2)(iii)	Felony	<u>Life</u> 40 Years	Person	<u>I</u> II	
Abuse and Other Offensive Conduct Child Abuse—physical, with death, victim at least 13 years old	CR, § 3-601(b)(2)(ii)	Felony	40 Years	Person	<u>No change</u> II	
Abuse and Other Offensive Conduct Child Abuse—physical, with death, previous conviction for child abuse	CR, § 3-601(c)(2)	Felony	<u>Life</u> 40 Years	Person	<u>I</u> II	
Criminal Gang Offenses Use of or threat of force to coerce participation or prevent leaving gang	CR, § 9-802	Misd.	2 Years	Person	<u>No change</u> VII	<u>\$10,000</u> <u>\$1,000</u>
Criminal Gang Offenses Use of or threat of force to coerce participation or prevent leaving gang in school or within 1,000 feet of school property	CR, § 9-803	Misd.	4 Years	Person	<u>No change</u> VI	<u>\$20,000</u> <u>\$4,000</u>

³ Violations of TR, § 16-303 (h) and (i) are not contained in the current version of the Guidelines Offense Table as both offenses have a statutory maximum of 1 year or less (offenses with a statutory maximum of 1 year or less are automatically assigned a seriousness category VII) . As such, no revision will be made to the sentencing guidelines pursuant to the JRA's revisions to the penalty for TR, § 16-303(H) and (I).



Offense	Source	Level	Max	Offense Type	Seriousness Category	Fine
Criminal Gang Offenses Participate as member of criminal gang in commission of crime; <u>in receipt and use or investment, of proceeds of \$10,000 or more from underlying crime in the acquisition of real property or establishment or operation of any enterprise; in acquisition or maintenance of any interest or control of any enterprise or property through an underlying crime</u>	CR, § 9-804(f)(1)(i)	Felony	<u>15 Years</u> 10 Years	Person	<u>No change</u> One category more serious than most serious underlying offense. If no conviction on underlying offense, category=IV	<u>\$1,000,000</u> \$100,000
Criminal Gang Offenses Participate as member of criminal gang in commission of crime; <u>in receipt and use or investment, of proceeds of \$10,000 or more from underlying crime in the acquisition of real property or establishment or operation of any enterprise; in acquisition or maintenance of any interest or control of any enterprise or property through an underlying crime</u> —resulting in death of victim	CR, § 9-804(f)(1)(ii)	Felony	<u>25 Years</u> 20 Years	Person	<u>No change</u> One category more serious than most serious underlying offense. If no conviction on underlying offense, category=III	<u>\$5,000,000</u> \$100,000
Criminal Gang Offenses Organize, supervise, finance, or manage a criminal gang	CR, § 9-805(b)	Felony	20 Years	Person	<u>No change</u> III	<u>\$1,000,000</u> \$100,000