

SENATE BILL 114

E1

7lr1154

By: **Senators Britt, Miller, Muse, Peters, and Rosapepe**

Introduced and read first time: January 24, 2007

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Prince George's County - Drug-Free Zone Pilot Program**

3 FOR the purpose of authorizing the establishment of a Drug-Free Zone Pilot Program
4 in Prince George's County under the authority of the Prince George's County
5 Council; authorizing the County Council to designate certain drug-free zones
6 based on areas of the county that have a certain history of drug-related activity;
7 requiring the County Council to consult with a certain committee before
8 designating the drug-free zones; establishing the membership of the committee;
9 requiring the county to post signs designating certain areas as drug-free zones;
10 requiring that the signs contain certain information; requiring the County
11 Council to publish a document containing the boundaries of the drug-free zones
12 and maintain the document as an official record; providing that a person
13 arrested for a certain drug-related offense committed in a drug-free zone or a
14 person convicted of a certain drug-related offense committed in a drug-free
15 zone may be subject to exclusion from the drug-free zone for a certain period of
16 time; providing certain reasons for allowing an excluded person to enter a
17 drug-free zone; establishing certain conditions to follow for an excluded person
18 who enters a drug-free zone; authorizing a law enforcement officer to issue a
19 notice of exclusion from a drug-free zone to a certain person; authorizing a law
20 enforcement officer to issue a certain notice of variance to permit the excluded
21 person to travel in a drug-free zone for certain purposes; requiring a certain
22 notice of exclusion to be in writing and contain certain information; requiring
23 the law enforcement officer to give a copy of the notice to the excluded person;
24 requiring the excluded person to carry a notice of variance whenever the person
25 is in the drug-free zone; authorizing a law enforcement officer to deny, revoke,
26 or amend a notice of variance for certain reasons; providing certain penalties;

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 establishing the right of an excluded person to appeal a notice of exclusion or
 2 variance by petition to the District Court; requiring an excluded person to meet
 3 certain time periods for filing a certain petition; establishing that the county
 4 must prove certain facts by a preponderance of the evidence in a District Court
 5 hearing on an appeal of a notice of exclusion and variance; establishing that
 6 certain documents present conclusive evidence of certain facts; establishing that
 7 certain other documents provide prima facie evidence of certain facts;
 8 establishing that the Maryland Rules, under certain circumstances, govern the
 9 format of a certain petition and certain procedures; authorizing a party to
 10 appeal a final judgment in accordance with certain laws; defining certain terms;
 11 requiring the County Council to submit a certain report on the pilot program;
 12 providing for the termination of this Act; and generally relating to the
 13 Drug-Free Zone Pilot Program in Prince George's County.

14 BY adding to

15 Article – Criminal Law

16 Section 5-631 through 5-639 to be under the new part “Part V. Drug-Free Zone
 17 Pilot Program”

18 Annotated Code of Maryland

19 (2002 Volume and 2006 Supplement)

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

22 **Article – Criminal Law**

23 **5-629. RESERVED.**

24 **5-630. RESERVED.**

25 **PART V. DRUG-FREE ZONE PILOT PROGRAM.**

26 **5-631.**

27 **THIS PART APPLIES ONLY IN PRINCE GEORGE'S COUNTY.**

28 **5-632.**

29 **(A) IN THIS PART THE FOLLOWING WORDS HAVE THE MEANINGS**
 30 **INDICATED.**

1 **(B) “CHIEF OF POLICE” MEANS THE CHIEF OF POLICE OF THE PRINCE**
2 **GEORGE’S COUNTY POLICE DEPARTMENT OR THE DESIGNEE OF THE CHIEF OF**
3 **POLICE.**

4 **(C) “COMMUNITY OR RECREATION CENTER” MEANS A FACILITY THAT:**

5 **(1) PROVIDES A BROAD SPECTRUM OF SERVICES FOR THE**
6 **GENERAL PUBLIC, INCLUDING HEALTH, SOCIAL, NUTRITIONAL, EDUCATIONAL,**
7 **OR RECREATIONAL SERVICES; AND**

8 **(2) IS OPERATED BY OR UNDER THE CONTROL OF THE COUNTY OR**
9 **A MUNICIPALITY IN THE COUNTY.**

10 **(D) “DRUG-FREE ZONE” MEANS AN AREA OF THE COUNTY DESIGNATED**
11 **BY THE COUNTY COUNCIL IN WHICH THE NUMBER OF ARRESTS, WHERE THERE**
12 **WAS PROBABLE CAUSE TO BELIEVE THAT A PERSON HAD COMMITTED A**
13 **DRUG-RELATED OFFENSE, FOR A 12-MONTH PERIOD WITHIN THE 18 MONTHS**
14 **PRECEDING ITS DESIGNATION IS SIGNIFICANTLY HIGHER THAN THAT FOR**
15 **OTHER SIMILARLY SIZED GEOGRAPHIC AREAS OF THE COUNTY THAT ARE NOT**
16 **WITHIN A DRUG-FREE ZONE.**

17 **(E) “DRUG-RELATED OFFENSE” MEANS:**

18 **(1) MANUFACTURING, DISTRIBUTING, POSSESSING WITH INTENT**
19 **TO DISTRIBUTE, OR DISPENSING A CONTROLLED DANGEROUS SUBSTANCE**
20 **UNDER § 5-602 OF THIS SUBTITLE;**

21 **(2) MANUFACTURING, DISTRIBUTING, OR POSSESSING**
22 **EQUIPMENT USED TO PRODUCE A CONTROLLED DANGEROUS SUBSTANCE**
23 **UNDER § 5-603 OF THIS SUBTITLE;**

24 **(3) CREATING OR DISTRIBUTING A CONTROLLED DANGEROUS**
25 **SUBSTANCE THAT PURPORTS TO RESEMBLE AN ACTUAL PRODUCT UNDER §**
26 **5-604 OF THIS SUBTITLE;**

27 **(4) MAINTAINING A DWELLING WHERE CONTROLLED DANGEROUS**
28 **SUBSTANCES ARE MANUFACTURED, STORED, OR DISTRIBUTED UNDER § 5-605**
29 **OF THIS SUBTITLE;**

1 (5) POSSESSING OR PASSING A FALSE PRESCRIPTION FOR A
2 CONTROLLED DANGEROUS SUBSTANCE UNDER § 5-606 OF THIS SUBTITLE;

3 (6) MANUFACTURING, DISTRIBUTING, POSSESSING WITH INTENT
4 TO DISTRIBUTE, OR DISPENSING SCHEDULE I OR SCHEDULE II NARCOTIC
5 DRUGS UNDER § 5-608 OF THIS SUBTITLE;

6 (7) MANUFACTURING, DISTRIBUTING, POSSESSING WITH INTENT
7 TO DISTRIBUTE, OR DISPENSING SCHEDULE I OR SCHEDULE II
8 HALLUCINOGENIC SUBSTANCES UNDER § 5-609 OF THIS SUBTITLE;

9 (8) MANUFACTURING, DISTRIBUTING, POSSESSING WITH INTENT
10 TO DISTRIBUTE, OR DISPENSING CONTROLLED DANGEROUS SUBSTANCES IN
11 VOLUME AMOUNTS UNDER § 5-612 OF THIS SUBTITLE;

12 (9) BEING A DRUG KINGPIN UNDER § 5-613 OF THIS SUBTITLE;

13 (10) IMPORTING CERTAIN AMOUNTS OF CONTROLLED DANGEROUS
14 SUBSTANCES INTO THE STATE UNDER § 5-613 OF THIS SUBTITLE; OR

15 (11) MANUFACTURING, DISTRIBUTING, POSSESSING WITH INTENT
16 TO DISTRIBUTE, OR DISPENSING CONTROLLED DANGEROUS SUBSTANCES NEAR
17 A SCHOOL UNDER § 5-628 OF THIS SUBTITLE.

18 (F) "ESSENTIAL NEEDS" MEANS FOOD, PHYSICAL CARE, OR MEDICAL
19 ATTENTION.

20 (G) "TRAVEL" MEANS THE MOVEMENT ON FOOT OR IN A VEHICLE
21 WITHIN A DRUG-FREE ZONE FROM ONE POINT TO ANOTHER WITHOUT DELAY
22 OTHER THAN TO OBEY TRAFFIC CONTROL DEVICES.

23 **5-633.**

24 THE COUNTY COUNCIL MAY ESTABLISH A DRUG-FREE ZONE PILOT
25 PROGRAM.

26 **5-634.**

1 (A) BY ORDINANCE, THE COUNTY COUNCIL MAY DESIGNATE AREAS OF
2 THE COUNTY AS DRUG-FREE ZONES.

3 (B) (1) THE COUNTY COUNCIL SHALL ESTABLISH A COMMITTEE TO
4 ASSIST IN IDENTIFYING AREAS TO BE DESIGNATED DRUG-FREE ZONES.

5 (2) THE COMMITTEE CONSISTS OF THE FOLLOWING MEMBERS:

6 (I) ONE MEMBER OF THE COUNTY COUNCIL, APPOINTED
7 BY THE CHAIR OF THE COUNTY COUNCIL;

8 (II) ONE REPRESENTATIVE OF THE COUNTY POLICE
9 DEPARTMENT, APPOINTED BY THE CHIEF OF POLICE;

10 (III) ONE REPRESENTATIVE OF MUNICIPAL LAW
11 ENFORCEMENT AGENCIES IN THE COUNTY, SELECTED BY THE PRESIDENT OF
12 THE MARYLAND CHIEFS OF POLICE ASSOCIATION;

13 (IV) ONE REPRESENTATIVE OF THE STATE'S ATTORNEY'S
14 OFFICE, APPOINTED BY THE STATE'S ATTORNEY;

15 (V) ONE REPRESENTATIVE OF THE MUNICIPALITIES IN THE
16 COUNTY, SELECTED BY THE PRESIDENT OF THE MARYLAND MUNICIPAL
17 LEAGUE;

18 (VI) ONE JUDGE OF THE DISTRICT COURT OF PRINCE
19 GEORGE'S COUNTY, APPOINTED BY THE CHIEF DISTRICT JUDGE;

20 (VII) ONE JUDGE OF THE CIRCUIT COURT FOR PRINCE
21 GEORGE'S COUNTY, APPOINTED BY THE COUNTY ADMINISTRATIVE JUDGE;

22 (VIII) ONE REPRESENTATIVE OF THE PRINCE GEORGE'S
23 COUNTY SCHOOL BOARD, APPOINTED BY THE CHAIR OF THE BOARD;

24 (IX) ONE REPRESENTATIVE OF THE FAITH COMMUNITY,
25 SELECTED BY THE CHAIR OF THE COUNTY COUNCIL; AND

26 (X) ONE REPRESENTATIVE OF A CITIZEN ACTION GROUP,
27 SELECTED BY THE CHAIR OF THE COUNTY COUNCIL.

1 **(3) THE APPOINTED MEMBER OF THE COUNTY COUNCIL SHALL**
2 **CHAIR THE COMMITTEE.**

3 **(4) THE COMMITTEE SHALL REPORT ITS RECOMMENDATIONS**
4 **FOR AREAS TO BE DESIGNATED AS DRUG-FREE ZONES TO THE COUNTY**
5 **COUNCIL BY DECEMBER 31, 2007.**

6 **(C) (1) THE COUNTY COUNCIL SHALL POST SIGNS DESIGNATING THE**
7 **AREAS AS "DRUG-FREE ZONES".**

8 **(2) THE SIGNS SHALL PROVIDE NOTICE OF THE PROVISIONS OF**
9 **THIS PART.**

10 **(D) THE COUNTY COUNCIL SHALL PUBLISH A DOCUMENT CONTAINING**
11 **THE LOCATION AND BOUNDARIES OF THE AREAS DESIGNATED AS DRUG-FREE**
12 **ZONES AND MAINTAIN THE DOCUMENT AS AN OFFICIAL RECORD.**

13 **5-635.**

14 **(A) A PERSON IS SUBJECT TO EXCLUSION FOR A PERIOD OF 90 DAYS**
15 **FROM ANY PUBLIC RIGHT-OF-WAY, COMMUNITY OR RECREATION CENTER, OR**
16 **PARK WITHIN A DRUG-FREE ZONE FROM THE DATE OF AN ARREST OF THAT**
17 **PERSON BASED ON PROBABLE CAUSE TO BELIEVE THAT THE PERSON HAS**
18 **COMMITTED A DRUG-RELATED OFFENSE WITHIN THAT DRUG-FREE ZONE,**
19 **UNLESS THE OFFENSE WAS COMMITTED ENTIRELY WITHIN A PRIVATE**
20 **RESIDENCE.**

21 **(B) A PERSON IS SUBJECT TO EXCLUSION FOR A PERIOD OF 1 YEAR**
22 **FROM ANY PUBLIC RIGHT-OF-WAY, COMMUNITY OR RECREATION AREA, OR**
23 **PARK WITHIN A DRUG-FREE ZONE FROM THE DATE OF A CONVICTION FOR ANY**
24 **DRUG-RELATED OFFENSE COMMITTED WITHIN THAT DRUG-FREE ZONE.**

25 **(C) EXCEPT AS PROVIDED IN § 5-636 OF THIS PART, A PERSON**
26 **EXCLUDED FROM A DRUG-FREE ZONE UNDER THE AUTHORITY OF THIS SECTION**
27 **MAY NOT ENTER THE DRUG-FREE ZONE EXCEPT TO:**

28 **(1) ATTEND A MEETING WITH AN ATTORNEY;**

1 (2) ATTEND A SCHEDULED INTERVIEW WITH A SOCIAL SERVICE
2 PROVIDER;

3 (3) COMPLY WITH COURT- OR PROBATION-ORDERED
4 OBLIGATIONS;

5 (4) CONTACT CRIMINAL JUSTICE PERSONNEL AT A CRIMINAL
6 JUSTICE FACILITY;

7 (5) ATTEND A HEARING RELATING TO AN APPEAL OF THE
8 PERSON'S:

9 (I) NOTICE OF EXCLUSION; OR

10 (II) DENIAL, REVOCATION, OR AMENDMENT OF A VARIANCE
11 ISSUED IN ACCORDANCE WITH § 5-637 OF THIS PART;

12 (6) TRAVEL THROUGH THE DRUG-FREE ZONE;

13 (7) RESIDE IN A DWELLING OR FACILITY;

14 (8) SATISFY OR ATTEMPT TO SATISFY AN ESSENTIAL NEED BY
15 ACCESSING A PUBLIC OR PRIVATE PLACE THAT PROVIDES AN ESSENTIAL NEED
16 WHEN THE ESSENTIAL NEED CANNOT REASONABLY BE ACCESSED BY THE
17 EXCLUDED PERSON WITHOUT ENTERING THE DRUG-FREE ZONE;

18 (9) WORK AS THE OWNER, AGENT, OR EMPLOYEE AT A PLACE OF
19 LAWFUL EMPLOYMENT;

20 (10) PERFORM WORK DIRECTLY RELATED TO LAWFUL
21 EMPLOYMENT;

22 (11) OBTAIN SOCIAL SERVICES WHEN:

23 (I) THE EXCLUDED PERSON IS IN NEED OF SOCIAL
24 SERVICES;

25 (II) THE SOCIAL SERVICES ARE SOUGHT FOR REASONS
26 RELATING TO THE HEALTH OR WELL-BEING OF THE EXCLUDED PERSON; AND

1 (III) THE SOCIAL SERVICES AGENCY HAS WRITTEN RULES OR
2 REGULATIONS PROHIBITING THE UNLAWFUL USE AND SALE OF CONTROLLED
3 DANGEROUS SUBSTANCES BY ITS CLIENTS;

4 (12) OBTAIN EDUCATION BY:

5 (I) ENROLLING AS A STUDENT IN AN EDUCATIONAL
6 FACILITY; OR

7 (II) ATTENDING SCHOOL AT AN EDUCATIONAL FACILITY; OR

8 (13) BE PRESENT AT ANY PLACE OR EVENT AS SPECIFIED BY A
9 VARIANCE ISSUED BY THE CHIEF OF POLICE IN ACCORDANCE WITH § 5-637 OF
10 THIS PART.

11 (D) WHILE IN A DRUG-FREE ZONE, A PERSON WHO IS OTHERWISE
12 EXCLUDED UNDER SUBSECTION (A) OR (B) OF THIS SECTION MAY ONLY TRAVEL
13 DIRECTLY TO AND FROM THE OBLIGATIONS LISTED IN SUBSECTION (C)(1)
14 THROUGH (13) OF THIS SECTION.

15 (E) AN EXCLUSION IS VALID ONLY IF THE PERSON TO BE EXCLUDED
16 RECEIVED ACTUAL NOTICE OF THE EXCLUSION IN ACCORDANCE WITH § 5-636
17 OF THIS PART.

18 (F) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A
19 MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT
20 EXCEEDING 90 DAYS OR A FINE NOT EXCEEDING \$500 OR BOTH.

21 **5-636.**

22 (A) THE CHIEF OF POLICE IS AUTHORIZED TO ISSUE A NOTICE OF
23 EXCLUSION FROM A PUBLIC RIGHT-OF-WAY, COMMUNITY OR RECREATION
24 CENTER, OR PARK IN A DRUG-FREE ZONE IN ACCORDANCE WITH THIS SECTION.

25 (B) IF A PERSON IS ARRESTED BASED ON PROBABLE CAUSE TO BELIEVE
26 THAT THE PERSON HAS COMMITTED A DRUG-RELATED OFFENSE WITHIN A
27 DRUG-FREE ZONE OR IF THE PERSON IS CONVICTED OF COMMITTING A

1 DRUG-RELATED OFFENSE WITHIN A DRUG-FREE ZONE, THE CHIEF OF POLICE
2 MAY EXCLUDE THE PERSON FROM THAT DRUG-FREE ZONE BY ISSUING THE
3 PERSON A NOTICE OF EXCLUSION.

4 (C) AT THE TIME THE CHIEF OF POLICE ISSUES A PERSON A NOTICE OF
5 EXCLUSION, THE CHIEF OF POLICE MAY DISCUSS WITH THE EXCLUDED PERSON
6 WHETHER THE PERSON HAS A PLAUSIBLE NEED FOR A VARIANCE AND MAY
7 ISSUE THE VARIANCE IN ACCORDANCE WITH § 5-637 OF THIS PART.

8 (D) (1) THE NOTICE OF EXCLUSION AND VARIANCE SHALL BE IN
9 WRITING AND A COPY DELIVERED TO THE EXCLUDED PERSON.

10 (2) THE NOTICE OF EXCLUSION AND VARIANCE SHALL SPECIFY:

11 (I) THE AREA DESIGNATED AS A DRUG-FREE ZONE FROM
12 WHICH THAT PERSON IS EXCLUDED; AND

13 (II) INFORMATION CONCERNING THE RIGHT TO APPEAL THE
14 EXCLUSION AND VARIANCE TO THE DISTRICT COURT AS PROVIDED IN TITLE 4,
15 SUBTITLE 3 OF THE COURTS ARTICLE.

16 **5-637.**

17 (A) EACH POLICE STATION IN THE COUNTY SHALL RECEIVE AND
18 PROCESS A REQUEST FOR A DRUG-FREE ZONE VARIANCE DURING THE HOURS
19 THE STATION IS OPEN TO THE PUBLIC.

20 (B) (1) ON A SHOWING OF ADEQUATE PROOF, THE CHIEF OF POLICE
21 MAY ISSUE, FOR ANY REASON, A VARIANCE FROM THE EXCLUSION AT ANY TIME
22 DURING AN EXCLUSION PERIOD TO AN EXCLUDED PERSON WHO PRESENTS A
23 PLAUSIBLE NEED TO ENGAGE IN ANY NONCRIMINAL ACTIVITY THAT IS NOT
24 ASSOCIATED WITH THE BEHAVIOR SUPPORTING THE PERSON'S EXCLUSION.

25 (2) A VARIANCE ISSUED UNDER THIS PARAGRAPH ALLOWS
26 TRAVEL WITHIN THE DRUG-FREE ZONE ONLY IN ACCORDANCE WITH THE TERMS
27 SPECIFIED IN THE VARIANCE.

1 **(C) THE EXCLUDED PERSON MUST CARRY THE VARIANCE WHILE IN THE**
2 **DRUG-FREE ZONE AND MUST PRESENT THE VARIANCE TO A LAW ENFORCEMENT**
3 **OFFICER ON REQUEST.**

4 **(D) THE CHIEF OF POLICE MAY DENY, REVOKE, OR AMEND A VARIANCE**
5 **FOR THE FOLLOWING REASONS:**

6 **(1) THE EXCLUDED PERSON PROVIDED FALSE INFORMATION IN**
7 **ORDER TO OBTAIN A VARIANCE;**

8 **(2) THERE IS PROBABLE CAUSE TO BELIEVE THE EXCLUDED**
9 **PERSON COMMITTED A DRUG-RELATED OFFENSE IN THE DRUG-FREE ZONE**
10 **AFTER THE ISSUANCE OF THE VARIANCE;**

11 **(3) THE CIRCUMSTANCES GIVING RISE TO THE ISSUANCE OF A**
12 **VARIANCE NO LONGER SUPPORT A CONTINUATION OF THE VARIANCE; OR**

13 **(4) THE EXCLUDED PERSON PRESENTS NEW CIRCUMSTANCES**
14 **THAT WOULD SUPPORT AMENDING THE VARIANCE.**

15 **(E) A PERSON WHO VIOLATES ANY TERM OF A VARIANCE ISSUED IN**
16 **ACCORDANCE WITH THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON**
17 **CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 30 DAYS OR A**
18 **FINE NOT EXCEEDING \$500 OR BOTH.**

19 **5-638.**

20 **(A) A PERSON TO WHOM A NOTICE OF EXCLUSION IS ISSUED SHALL**
21 **HAVE THE RIGHT TO APPEAL BY PETITION TO THE DISTRICT COURT.**

22 **(B) EXCEPT AS OTHERWISE PROVIDED IN THIS PART, THE MARYLAND**
23 **RULES GOVERN THE FORMAT OF THE PETITION AND THE PROCEDURES TO BE**
24 **FOLLOWED BY THE COURT AND THE PARTIES UNDER THIS PART.**

25 **(C) A PERSON TO WHOM A NOTICE OF EXCLUSION IS ISSUED MUST FILE:**

26 **(1) AN APPEAL OF A 90-DAY NOTICE OF EXCLUSION IN WRITING**
27 **BY 5:00 P.M. OF THE TENTH BUSINESS DAY FOLLOWING ISSUANCE OF THE**
28 **NOTICE OF EXCLUSION;**

1 **(2) AN APPEAL OF A 1-YEAR NOTICE OF EXCLUSION IN WRITING**
2 **BY 5:00 P.M. OF THE FIFTH BUSINESS DAY FOLLOWING THE DATE OF**
3 **CONVICTION; OR**

4 **(3) AN APPEAL OF A REQUEST FOR A VARIANCE, REQUEST FOR AN**
5 **AMENDMENT OF A VARIANCE, OR REVOCATION OF A VARIANCE IN WRITING BY**
6 **5:00 P.M. OF THE FIFTH BUSINESS DAY FOLLOWING THE ACTION REGARDING**
7 **THE VARIANCE.**

8 **(D) (1) (I) A 90-DAY EXCLUSION MAY NOT TAKE EFFECT DURING**
9 **THE TIME THAT AN APPEAL OF THE EXCLUSION OR A VARIANCE IS PENDING.**

10 **(II) IF NO APPEAL IS TAKEN, THE 90-DAY EXCLUSION SHALL**
11 **TAKE EFFECT AT 12:01 A.M. ON THE EIGHTH CALENDAR DAY FOLLOWING THE**
12 **ISSUANCE OF THE NOTICE OF EXCLUSION.**

13 **(2) A 1-YEAR EXCLUSION SHALL TAKE EFFECT AT 12:01 A.M. ON**
14 **THE CALENDAR DAY FOLLOWING THE DATE OF CONVICTION AND,**
15 **NOTWITHSTANDING AN APPEAL OF THE EXCLUSION, SHALL REMAIN IN EFFECT**
16 **UNLESS THE DISTRICT COURT OVERTURNS THE NOTICE OF EXCLUSION.**

17 **(E) (1) AT THE HEARING ON AN APPEAL OF A 90-DAY EXCLUSION,**
18 **THE COUNTY HAS THE BURDEN TO SHOW BY A PREPONDERANCE OF THE**
19 **EVIDENCE THAT THE APPELLANT COMMITTED A DRUG-RELATED OFFENSE AND**
20 **THAT THE CONDUCT SUPPORTING THE EXCLUSION OCCURRED WITHIN A**
21 **DRUG-FREE ZONE.**

22 **(2) AT THE HEARING ON AN APPEAL OF A 1-YEAR EXCLUSION,**
23 **THE COUNTY HAS THE BURDEN TO SHOW BY A PREPONDERANCE OF THE**
24 **EVIDENCE THAT THE APPELLANT WAS CONVICTED OF A DRUG-RELATED**
25 **OFFENSE, AND THAT THE CONDUCT SUPPORTING THE CONVICTION OCCURRED**
26 **WITHIN A DRUG-FREE ZONE.**

27 **(3) (I) AT THE HEARING ON AN APPEAL OF A DENIAL OF A**
28 **REQUEST FOR A VARIANCE, THE COUNTY HAS THE BURDEN TO SHOW BY A**
29 **PREPONDERANCE OF THE EVIDENCE THAT THE DENIAL WAS IN ACCORDANCE**
30 **WITH § 5-637 OF THIS PART.**

1 (II) AT THE HEARING ON AN APPEAL OF A REVOCATION OF A
2 VARIANCE, THE COUNTY HAS THE BURDEN TO SHOW BY A PREPONDERANCE OF
3 THE EVIDENCE THAT A CONDITION LISTED IN § 5-637 OF THIS PART
4 SUPPORTING THE REVOCATION EXISTED AT THE TIME OF THE REVOCATION.

5 (F) (1) AT THE HEARING ON AN APPEAL OF A 1-YEAR EXCLUSION, A
6 JUDGMENT OF CONVICTION FOR THE DRUG-RELATED OFFENSE THAT FORMED
7 THE BASIS FOR THE EXCLUSION:

8 (I) SHALL BE CONCLUSIVE EVIDENCE THAT THE
9 DESCRIBED CONDUCT OCCURRED; BUT

10 (II) ABSENT A FINDING OF FACT BY THE COURT OF
11 CONVICTION, IS NOT CONCLUSIVE EVIDENCE THAT THE CONDUCT OCCURRED IN
12 A DRUG-FREE ZONE.

13 (2) AT THE HEARING ON AN APPEAL OF A 90-DAY EXCLUSION,
14 THE FOLLOWING SHALL BE PRIMA FACIE EVIDENCE THAT THE EXCLUSION WAS
15 BASED ON PROBABLE CAUSE TO BELIEVE THAT THE APPELLANT COMMITTED A
16 DRUG-RELATED OFFENSE WITHIN THE DRUG-FREE ZONE:

17 (I) A CHARGING DOCUMENT CHARGING THE APPELLANT
18 WITH A VIOLATION OF A DRUG-RELATED OFFENSE WITHIN THE DRUG-FREE
19 ZONE; OR

20 (II) A DETERMINATION BY A COURT HAVING JURISDICTION
21 OVER THE OFFENSE THAT FORMS THE BASIS FOR THE EXCLUSION THAT
22 PROBABLE CAUSE EXISTED TO ARREST THE PERSON TO WHOM THE NOTICE OF
23 EXCLUSION WAS ISSUED FOR VIOLATION OF A DRUG-RELATED OFFENSE WITHIN
24 THE DRUG-FREE ZONE.

25 **5-639.**

26 A PARTY MAY APPEAL A FINAL JUDGMENT ENTERED UNDER THIS PART AS
27 PROVIDED IN TITLE 12 OF THE COURTS ARTICLE AND IN THE MARYLAND
28 RULES.

29 SECTION 2. AND BE IT FURTHER ENACTED, That, on or before November
30 30, 2010, the Prince George's County Council shall submit a report to the General
31 Assembly and the Prince George's County legislative delegation, in accordance with §

1 2-1246 of the State Government Article, that evaluates the Drug-Free Zone Pilot
2 Program established under this Act.

3 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
4 October 1, 2007. It shall remain effective for a period of 3 years and 3 months and, at
5 the end of December 31, 2010, with no further action required by the General
6 Assembly, this Act shall be abrogated and of no further force and effect.