

successfully completes the program of treatment, is required to serve the balance of the mandatorily imposed sentence of incarceration prescribed by" the precursor to the law amended by this bill [pre-Code Revision of Article 27]. *State v. Thompson*, 332 Md. 1, 3 (1993).³ The Court considered the specific question of "whether the treatment ordered is in lieu of, or, as the State argues, in addition to, the mandatory sentence," and held that "when a defendant successfully completes the drug treatment program, whether he or she must serve the remainder of the mandatory ten year sentence, imposed pursuant to [this statute], is within the trial court's discretion to determine." *Thompson* at 10, 11.⁴

Finally, many proponents of the bill have also been long-time supporters of drug treatment funds and services for those in need. This is an issue I have championed throughout my time in public service. During my time as Mayor of Baltimore City, funding for drug treatment services doubled. This year, I provided, and the General Assembly approved, a \$5 million increase in drug treatment funding in a very difficult budget. This bill, however, does nothing to advance the amount of drug treatment services available to addicted individuals.

Supporters of this bill have worked in good faith, hoping to primarily meet the needs of low-level dealers who sell small quantities of drugs in order to gain the means to support their own habits. In my opinion, State law has long been carefully crafted to meet that narrow, legitimate public policy goal. The desire of the bill's supporters to have a trial judge consider the individual circumstances of a defendant to determine whether the addiction precipitated the unlawful behavior, and order treatment for the underlying addiction, is met under current law. This bill, as passed by the General Assembly, unnecessarily broadens current law and makes parole a possibility, however remote, for drug dealers who are driven by greed and profit supported by violence, not addiction.

For the above stated reasons, I have vetoed House Bill 992.

Sincerely,

Martin O'Malley
Governor

³ *Thompson* involved an individual who was a second-time distributor of cocaine. He was sentenced to several concurrent sentences, ten years of which were to be served without parole pursuant to the law that is the subject of HB 992. As a condition of release, he was committed to Second Genesis, a drug treatment program. The State argued that once treatment was completed the defendant should be remanded to the Department of Corrections to serve the balance of the mandatory minimum sentence, contending that treatment does not allow a defendant to avoid the mandatory sentence.

⁴ The Court rejected the State's argument that remand for service of the balance of the sentence was mandatory, stating that "[t]he trial judge, having observed the defendant before and after treatment, will be in the position to determine whether society's interest would be better served if that defendant, upon completion of treatment, is returned to prison or released." *Thompson* at 19, 20.