
By: Chairman, Judiciary Committee (Departmental - Public Safety and Correctional Services)

Introduced and read first time: January 15, 1997

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Department of Public Safety and Correctional Services - Division of Correction -**
3 **Corrective Bill**

4 FOR the purpose of repealing certain obsolete references to the Maryland Penitentiary
5 and other State correctional institutions; clarifying that the Commissioner of
6 Correction may designate any correctional institution or facility under the
7 jurisdiction of the Division of Correction as the site for carrying out certain
8 sentences; repealing certain obsolete references to the duties of the warden of the
9 Maryland Penitentiary and providing that the Commissioner of Correction shall
10 perform certain duties; repealing certain obsolete references in the Division of
11 Correction; and generally relating to correcting obsolete references to State
12 correctional institutions and clarifying the duties of the Commissioner of
13 Correction.

14 BY repealing and reenacting, with amendments,
15 Article 27 - Crimes and Punishments
16 Section 61, 75, 76, 77, 410, 690(b), 719, and 720
17 Annotated Code of Maryland
18 (1996 Replacement Volume)

19 BY repealing
20 Article 27 - Crimes and Punishments
21 Section 689
22 Annotated Code of Maryland
23 (1996 Replacement Volume)

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

26 **Article 27 - Crimes and Punishments**

27 61.

28 Every person who wilfully and maliciously interferes with, injures, destroys or
29 tampers with, or who wilfully sets on foot, instigates, engages in or in any way furthers any
30 act by which any horse used for the purposes of racing, breeding or competitive exhibition

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1 of skill, breed or stamina, is interfered with, injured, destroyed or tampered with, or any
2 act tending to produce such interference, injury, destruction or tampering, whether such
3 horse be the property of himself or another, shall be deemed guilty of a felony, punishable
4 by imprisonment [in the Maryland Penitentiary] for a term of not less than one year nor
5 more than three years.

6 75.

7 (a) (1) In this section the following terms have the meanings indicated.

8 (2) (i) "State postconviction review process" means the initial
9 adjudication of a postconviction petition filed under § 645A(a)(2)(i) of this article,
10 including any appellate review of the postconviction proceeding.

11 (ii) "State postconviction review process" does not include:

12 1. A postconviction proceeding that has been reopened under §
13 645A(a)(2)(ii) of this article or any appellate review of such proceeding; or14 2. A postconviction proceeding on a second petition filed
15 before October 1, 1995 or any appellate review of such proceeding.16 (3) "Warrant of execution" means a warrant for the execution of a person
17 who has been sentenced to death.18 (b) (1) When a person is sentenced to the punishment of death, the judge or
19 judges presiding in the court shall, at the time of passing sentence, make out, sign and
20 issue a warrant of execution directed to the [warden of the Maryland Penitentiary]
21 COMMISSIONER OF CORRECTION, stating the conviction and sentence and appointing a
22 5-day period beginning on a Monday within which the sentence must be executed, and
23 commanding the [said warden] COMMISSIONER OF CORRECTION to execute the
24 sentence upon some day within the period so appointed.25 (2) A warrant of execution shall be stayed during the direct review process
26 and the State postconviction review process.27 (3) (i) If the original warrant of execution has not yet expired at the
28 conclusion of the State postconviction review process, the judge who imposed the death
29 sentence or the judge then presiding in the trial court in which the sentence was imposed
30 shall lift the stay imposed under paragraph (2) of this subsection.31 (ii) If the original warrant of execution has expired at the conclusion
32 of the State postconviction review process, the judge who imposed the death sentence or
33 the judge then presiding in the trial court in which the sentence was imposed shall issue
34 another warrant of execution as provided under paragraph (1) of this subsection.35 (c) If, after medical examination, it shall appear to the satisfaction of the
36 Governor that a female defendant, sentenced to the punishment of death, is pregnant, the
37 Governor shall revoke the warrant of execution previously issued. As soon as the
38 Governor is satisfied that such female defendant is no longer pregnant, he shall issue
39 forthwith his warrant of execution appointing a 5-day period beginning on a Monday
40 within which the sentence must be executed.

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1 (d) The Governor shall have the power, in his discretion, to grant a stay for any
2 cause and, upon so doing, he shall issue an order revoking the warrant of execution
3 theretofore issued. Thereafter, the sentence shall not be executed until the Governor
4 shall issue his warrant of execution appointing a 5-day period beginning on a Monday
5 within which the sentence must be executed.

6 (e) The Governor shall notify the [warden] COMMISSIONER OF CORRECTION
7 forthwith of the revocation of a warrant of execution by him.

8 (f) Each warrant of execution shall designate a 5-day period beginning on a
9 Monday within which the sentence must be executed, and shall command the warden to
10 execute the sentence upon some day within the period so designated. The period so
11 designated must begin not less than four (4) weeks and not more than eight (8) weeks
12 after the issuance of the warrant of execution. The time of the execution within such
13 period shall be left to the discretion of the [warden of the Maryland Penitentiary]
14 COMMISSIONER OF CORRECTION. No previous announcement of the day or hour of the
15 execution shall be made except to the persons who shall be invited or permitted to be
16 present at the execution, as hereinbefore provided.

17 76.

18 Immediately upon sentence of death being pronounced upon any convict by any
19 court of this State, the convict shall be taken into custody by the sheriff of the county or
20 city wherein he was indicted, and held by him under such guard or guards as the sheriff
21 shall determine to be necessary, and as soon thereafter as possible, said convict shall be,
22 by the said sheriff delivered to the [warden of the Maryland Penitentiary] DIVISION OF
23 CORRECTION, to await the execution of his sentence [by the said warden as aforesaid].
24 No expense incident to the detention of the said convict in the [Maryland Penitentiary]
25 DIVISION OF CORRECTION, including the expense of guarding, lodging, feeding, clothing
26 and caring for such convict, shall be assessed against, billed to or paid by the county
27 commissioners of the county where said convict was indicted, or the Mayor and City
28 Council of Baltimore, if indicted in Baltimore City.

29 No expense incident to the guarding, lodging, feeding, clothing and caring for any
30 person sentenced to any State institution shall be assessed against, billed to or paid by the
31 county commissioners of the county where such person was indicted, or the Mayor and
32 City Council of Baltimore, if indicted in Baltimore City, irrespectively of whether or not
33 the judgment, upon which such sentence is imposed, is thereafter reversed.

34 77.

35 Should the condemned felon, while in the custody of the [warden of the Maryland
36 Penitentiary] COMMISSIONER OF CORRECTION or the sheriff of the county or city
37 where he was indicted, be granted a reprieve by the Governor, or should the execution of
38 the sentence be stayed by any competent judicial proceeding, notice of such reprieve or
39 stay of execution shall be served upon the [said warden] COMMISSIONER OF
40 CORRECTION or sheriff, as well as upon the condemned felon, and the [said warden]
41 COMMISSIONER OF CORRECTION or sheriff shall yield obedience to the same, and said
42 felon shall remain in the custody of [said warden] COMMISSIONER OF CORRECTION or
43 sheriff where he happens to be at the time of that notice. In any subsequent proceeding
44 the mandate of the court having regard to the condemned felon shall be served upon the

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1 [warden] COMMISSIONER OF CORRECTION or sheriff, then having said felon in
2 custody, as well as the said felon. Should the said felon be resentenced by the court, then
3 the proceedings shall be as hereinbefore provided under the original sentence. Should a
4 new trial be granted such condemned felon after he has been conveyed to [the
5 penitentiary] AN INSTITUTION OR FACILITY UNDER THE JURISDICTION OF THE
6 DIVISION OF CORRECTION, then he shall be conveyed back to the place of trial by such
7 guard or guards as the [warden] COMMISSIONER OF CORRECTION may direct, their
8 expenses to be paid as is now provided by law for the conveyance of convicts to [the
9 house of correction] AN INSTITUTION OR FACILITY UNDER THE JURISDICTION OF
10 THE DIVISION OF CORRECTION.

11 410.

12 All murder which shall be committed in the perpetration of, or attempt to
13 perpetrate, any rape in any degree, sexual offense in the first or second degree, sodomy,
14 mayhem, robbery, carjacking or armed carjacking, burglary in the first, second, or third
15 degree, kidnapping as defined in §§ 337 and 338 of this article, or in the escape or attempt
16 to escape from the [Maryland Penitentiary, the house of correction, the Baltimore City
17 Detention Center] PATUXENT INSTITUTION, ANY INSTITUTION OR FACILITY UNDER
18 THE JURISDICTION OF THE DIVISION OF CORRECTION OR THE DIVISION OF
19 PRETRIAL DETENTION AND SERVICES, or from any jail or penal institution in any of the
20 counties of this State, shall be murder in the first degree.

21 [689.

22 (a) The correctional and reformatory institutions under the Department of
23 Correction are:

24 (b) The Maryland Penitentiary.

25 (c) The Maryland House of Correction.

26 (d) Hagerstown, which is a place of confinement and training for male offenders
27 from sixteen (16) to twenty-five (25) years of age, both inclusive. In those cases in which
28 the judge of the Circuit Court for Baltimore City, who is assigned to exercise jurisdiction
29 in juvenile causes, may waive jurisdiction and order a minor under the age of sixteen, and
30 the judge of any circuit court in any county exercising jurisdiction in juvenile causes, may
31 waive jurisdiction and order a minor under the age of eighteen, to be held for action
32 under the regular procedure that would follow if such act or acts had been committed by
33 an adult, then and in that event the judge presiding in the circuit court of any county upon
34 assuming jurisdiction in such case and upon conviction may commit the minor to the
35 Maryland Correctional Institution -- Hagerstown regardless of age. The courts of this
36 State, instead of imposing sentences of fixed duration upon male offenders included
37 within this subsection may sentence them to the Maryland Correctional Institution --
38 Hagerstown for an indeterminate period of time which may not exceed the maximum
39 term of imprisonment provided by statute for the offenses of which said person was
40 convicted; and in the event no penalty is prescribed by statute for said offenses then the
41 court shall prescribe the maximum term of imprisonment; but nothing in this sentence
42 applies to any case in which the sentence is life imprisonment or to the service of time for
43 nonpayment of a fine.

44 (d-1) The Maryland Correctional Training Center -- Hagerstown.

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1 (e) The Maryland Correctional Institution for Women -- Jessup, which is the
2 place of confinement and training for all female offenders who are sentenced to
3 imprisonment in any institution other than a jail, for an offense for which the maximum
4 penalty exceeds three (3) months.

5 Any female offender who may be sentenced to death shall be detained in proper
6 segregation and under adequate control in the Maryland Correctional Institution for
7 Women -- Jessup until not less than twenty-four hours prior to the time fixed by the
8 Governor for the execution of such offender, at which time the offender shall be
9 transferred, by authority of the Department of Correction, to the death house in the
10 Maryland Penitentiary for such execution, to be performed under the direct supervision
11 of the warden of the Maryland Penitentiary in accordance with the provisions of §§ 71 to
12 79, both inclusive, of this article, and in the presence of female officers assigned for this
13 purpose. The courts of this State, instead of imposing sentence of fixed duration upon
14 female offenders, may sentence them to the Maryland Correctional Institution for
15 Women -- Jessup for an indeterminate period of time which may not exceed the
16 maximum term of imprisonment provided by the statute for the offense of which said
17 person was convicted and in the event no penalty is provided by statute for said offense
18 then the court shall prescribe the maximum term of imprisonment; but nothing in this
19 subsection relating to the imposition of an indeterminate sentence applies to any case in
20 which the sentence imposed is life imprisonment.

21 (f) The Maryland Correctional Camp Center located at Jessup. In connection
22 with this Center, the Department of Correction is authorized to operate correctional
23 camps as established from time to time elsewhere in the State.

24 (g) The Pre-Release Unit for Women established under § 678C of this article.

25 (h) Such receiving and classification center or centers as may be established by
26 the Department either at one of the institutions enumerated in this section or elsewhere.

27 (i) Any community correction center as established and maintained under the
28 provisions as set forth in § 706 of this article.]

29 690.

30 (b) Notwithstanding any of the provisions of this article or any other law to the
31 contrary, judges, in the sentencing of convicted persons for any offense for which the
32 provisions of this article or any other law requires the imprisonment to be served at [any
33 one of those institutions enumerated in § 689 of this article] A SPECIFIC STATE
34 CORRECTIONAL INSTITUTION, shall in all such cases sentence such persons to the
35 jurisdiction of the Division of Correction. All such persons shall be committed to the
36 custody of the Commissioner of Correction and delivered to him for imprisonment.
37 Thereafter all such persons shall be held, confined in, assigned to or transferred to such
38 of the institutions and facilities under the jurisdiction of the Division as the Division from
39 time to time may order, including Department of State Police barracks where such use is
40 convenient and practical.

41 Any person sentenced prior to June 1, 1967 to any one of the institutions and
42 facilities under the jurisdiction of the Division may, after such date, and notwithstanding

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1 such sentence, be held, confined in, assigned to or transferred to such of these institutions
2 and facilities as the Division may from time to time order.

3 719.

4 All male prisoners confined in [the Maryland Penitentiary, the Maryland House of
5 Correction] AN INSTITUTION OR FACILITY UNDER THE JURISDICTION OF THE
6 DIVISION OF CORRECTION, or any of the county, town or city jails, shall be liable to
7 labor upon the State, county and city roads and streets in accordance with the provisions
8 of §§ 719 to 726; provided that nothing in said sections shall apply to the Baltimore City
9 jail, or to the Mayor and City Council of Baltimore, or to the public highways of the City.

10 720.

11 The Governor of this State may from time to time require the [Board]
12 COMMISSIONER of Correction to certify to him the number of male prisoners confined in
13 the [Maryland Penitentiary and in the Maryland House of Correction] INSTITUTIONS
14 AND FACILITIES UNDER THE JURISDICTION OF THE DIVISION OF CORRECTION, who
15 are physically able to work upon the public roads of the State, or of any county, city or
16 town thereof, and who are available for such work. If the governing body of any town or
17 city other than Baltimore City or the county commissioners of any county desire the
18 prisoners confined in the jails under their respective jurisdictions to work upon the public
19 roads or streets, then they may, in like manner, certify to the Governor the number of
20 male prisoners confined in the jails under their respective jurisdictions who are physically
21 able to work upon said public roads of the State, or of any county, city or town thereof,
22 and who are available for such work; provided, however, that in Frederick City, the
23 District Court judge who tried and committed a vagrant or other offender of a municipal
24 law or ordinance is hereby authorized and directed, whenever practicable, to make an
25 assignment of such person to employment on the county roads or on the streets of the
26 City, and the sheriff or other officer into whose custody said person has been committed
27 is hereby ordered to comply with any such order for assignment, and the person ordered
28 to work by the judge is to be guarded, if he works upon the streets of the City, by the
29 superintendent of streets or by any other person deputized by the sheriff, and if he works
30 upon the roads of the county, then he shall be guarded by the road supervisor of the
31 district in which the said person works, and the sheriff is hereby authorized to deputize
32 for this purpose any of the said officials or other persons to take charge of the said
33 persons while so employed.

34 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
35 October 1, 1997.