

HOUSE BILL 1151

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2002 Regular Session  
2lr0115

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

Introduced and read first time: February 8, 2002

Assigned to: Judiciary

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Committee Report: Favorable

House action: Adopted

Read second time: March 12, 2002

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CHAPTER 269

1 AN ACT concerning

2 **Patuxent Institution - Eligible Person and Youth Programs**

3 FOR the purpose of expanding the scope of programs at the Patuxent Institution;  
4 altering the scope of information in the Institution's annual report; providing  
5 procedures for the mandatory supervision release of certain inmates from the  
6 institution; authorizing the revocation of the release under certain  
7 circumstances; reassigning responsibility for the intake of certain inmates from  
8 the Commissioner to the Director; clarifying the conduct that constitutes a  
9 major violation; establishing authority for the Board of Review to act in  
10 conjunction with persons in the Youth Program; defining terms; and generally  
11 relating to the Patuxent Institution.

12 BY repealing and reenacting, with amendments,  
13 Article - Correctional Services  
14 Section 4-101, 4-202, 4-203(d), 4-301(a), 4-304, 4-306(c), and 4-401  
15 Annotated Code of Maryland  
16 (1999 Volume and 2001 Supplement)

17 BY adding to  
18 Article - Correctional Services  
19 Section 4-213  
20 Annotated Code of Maryland  
21 (1999 Volume and 2001 Supplement)

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

1

**Article - Correctional Services**

2 4-101.

3 (a) In this title the following words have the meanings indicated.

4 (b) "Board of Review" means the institutional Board of Review created under  
5 § 4-205 of this title.

6 (c) "Commissioner" means the Commissioner of Correction.

7 (d) "Director" means the Director of the Patuxent Institution.

8 (e) (1) "Eligible person" means an individual who:

9 (i) has been convicted of a crime and is serving a sentence of  
10 imprisonment with at least 3 years remaining on the sentence;

11 (ii) has an intellectual impairment or emotional imbalance;

12 (iii) is likely to respond favorably to the programs and services that  
13 the Institution provides;14 (iv) can better respond to remediation through those programs and  
15 services than by other incarceration; and16 (v) meets the eligibility criteria that the Secretary establishes  
17 under § 4-208(b) of this title.

18 (2) "Eligible person" does not include an individual who:

19 (i) is serving two or more sentences of imprisonment for life under  
20 Article 27, § 412 of the Code;21 (ii) is serving one or more sentences of imprisonment for life when a  
22 court or jury has found under Article 27, § 413 of the Code, beyond a reasonable doubt,  
23 that one or more aggravating circumstances existed; or24 (iii) has been convicted of murder in the first degree, rape in the  
25 first degree, or a sexual offense in the first degree, unless the sentencing judge, at the  
26 time of sentencing or in the exercise of the judge's revisory power under the Maryland  
27 Rules, recommends that the individual be referred to the Institution for evaluation.28 (f) "Evaluation team" means a team of at least three professional employees  
29 of the Institution, one of whom shall be a social worker, one of whom shall be a  
30 psychologist, and one of whom shall be a psychiatrist.

31 (g) "Institution" means the Patuxent Institution.

1 (H) "PATUXENT PROGRAMS" INCLUDES THE ELIGIBLE PERSON PROGRAM AS  
2 DEFINED IN § 4-301 OF THIS TITLE, AND THE PATUXENT YOUTH PROGRAM AS  
3 DEFINED IN § 4-401 OF THIS TITLE.

4 [(h)] (I) "Remediation" means treatment for specific areas of mental and  
5 social deficiencies that are highly related to criminal behavior.

6 [(i)] (J) "Victim" means:

7 (1) an individual who suffers personal physical injury or death as a  
8 direct result of a crime; or

9 (2) if the victim is deceased, a designated family member of the victim.

10 4-202.

11 (a) The purpose of the Institution is to provide remediation programs and  
12 services to youthful OFFENDERS, OTHER eligible persons, AND MENTALLY ILL  
13 INMATES including a range of program alternatives indicated by the current state of  
14 knowledge to be appropriate and effective for the population being served.

15 (b) The Institution shall establish and maintain, as an integral part of the  
16 programs, an effective research, development, and training effort to evaluate and  
17 recommend improvements on an ongoing basis.

18 (c) (1) No more than 350 eligible persons may be enrolled in the eligible  
19 person remediation program.

20 (2) The Institution may provide other remediation programs that the  
21 Secretary designates.

22 4-203.

23 (d) (1) On or before October 31 of each year, the Director shall submit an  
24 annual report to the Secretary and the Governor.

25 (2) The annual report shall state:

26 (i) the Institution's expenses, receipts, disbursements, condition,  
27 and progress;

28 (ii) the number of inmates and each inmate's age, sex, race, place of  
29 birth and conviction, crime, and term of confinement;

30 (iii) the number of inmates who [escape,] ARE ADMITTED TO EACH  
31 OF THE PATUXENT PROGRAMS;

32 (IV) THE NUMBER OF DIVISION OF CORRECTION INMATES  
33 RECEIVING CARE DURING THE YEAR AT PATUXENT INSTITUTION FOR MENTAL  
34 HEALTH CONDITIONS;

1 (V) THE NUMBER OF PATUXENT PROGRAM INMATES WHO are  
2 pardoned, or discharged;

3 [(iv)] (VI) the number of [eligible persons and noneligible persons]  
4 INMATES evaluated at the Institution FOR EACH OF THE PATUXENT PROGRAMS;

5 [(v)] (VII) the decisions of the Board of Review to grant leave to  
6 [eligible persons] PATUXENT PROGRAM INMATES;

7 [(vi)] (VIII) the number of rearrests, reconvictions, reincarcerations,  
8 and parole violations of individuals [formerly confined at the Institution] RELEASED  
9 FROM INCARCERATION THROUGH A PATUXENT PROGRAM;

10 [(vii)] (IX) the number of eligible persons [confined at the  
11 Institution] who are REMOVED FROM EACH PATUXENT PROGRAM AND returned to  
12 the Division of Correction [for major violations of the Institution's disciplinary rules];

13 [(viii)] (X) [information on the type of major violation  
14 necessitating] A SUMMARY OF THE REASONS UNDERLYING an individual's transfer to  
15 the Division of Correction as described in item [(vi)] (IX) of this paragraph;

16 [(ix)] (XI) information on educational programs and community  
17 reentry activities; and

18 [(x)] (XII) any remarks and suggestions the Director considers  
19 necessary to advance the interests of the Institution.

20 (3) The Director shall verify the report required by this subsection.

21 (4) Subject to § 2-1246 of the State Government Article, the Governor  
22 shall submit to the General Assembly the report required under this subsection and  
23 any recommendation that the Governor considers expedient.

24 (5) The Secretary shall adopt regulations regarding the annual report  
25 required under this subsection.

26 4-213.

27 (A) AN INMATE CONFINED AT THE INSTITUTION SHALL BE RELEASED UNDER  
28 MANDATORY SUPERVISION, AS DEFINED IN § 7-101 OF THIS ARTICLE, IN THE SAME  
29 MANNER AND SUBJECT TO THE SAME CONDITIONS AS IF THE INMATE WERE BEING  
30 RELEASED FROM A CORRECTIONAL FACILITY IN THE DIVISION OF CORRECTION.

31 (B) THE DIRECTOR MAY ESTABLISH SPECIAL PROGRAMS OR PROJECTS FOR  
32 DIMINUTION CREDIT AWARD TO THE SAME EXTENT THAT SUCH CREDITS MAY BE  
33 AWARDED IN THE DIVISION OF CORRECTION.

34 (C) THE DIRECTOR MAY RESTORE TO INMATES AT PATUXENT INSTITUTION  
35 ANY DIMINUTION CREDITS RESCINDED UPON ADJUDICATION OF VIOLATION OF  
36 INSTITUTIONAL DISCIPLINARY RULES TO THE SAME EXTENT AS SUCH CREDITS MAY

1 BE RESTORED BY THE COMMISSIONER OF CORRECTION TO INMATES IN THE  
2 DIVISION.

3 (D) THE DIRECTOR MAY IMPOSE SPECIAL TERMS AND CONDITIONS ON ANY  
4 INMATE RELEASED ON MANDATORY SUPERVISION FROM THE INSTITUTION.

5 (E) IF THE SECRETARY REASSIGNS SUPERVISORY RESPONSIBILITY OF A  
6 MANDATORY RELEASEE FROM THE DIVISION OF PAROLE AND PROBATION TO THE  
7 INSTITUTION IN ACCORDANCE WITH § 2-117 OF THIS ARTICLE, THE SECRETARY MAY  
8 ALSO REASSIGN THE AUTHORITY TO REVOKE MANDATORY SUPERVISION RELEASE  
9 TO THE BOARD OF REVIEW.

10 4-301.

11 (a) (1) The DIRECTOR MAY REQUEST THAT THE Commissioner [may] refer  
12 an inmate to the Institution for evaluation as to whether the inmate is an eligible  
13 person if the inmate:

14 (i) is serving a sentence of imprisonment following conviction of a  
15 crime;

16 (ii) has more than 3 years remaining to serve on a sentence;

17 (iii) has not been evaluated by or confined at the Institution within  
18 the preceding 3 years;

19 (iv) is not disqualified from being an eligible person under §  
20 4-101(e)(2) of this title; and

21 (v) meets the eligibility criteria that the Secretary establishes  
22 under § 4-208(b) of this title.

23 (2) The REQUEST THAT THE Commissioner [may] refer an inmate to the  
24 Institution SHALL BE BASED:

25 (i) on recommendation of the sentencing court;

26 (ii) on application by the inmate or the State's Attorney of the  
27 county in which the inmate was last convicted; or

28 (iii) on the Commissioner's own initiative.

29 (3) THE COMMISSIONER SHALL PROMPTLY REFER ANY INMATE  
30 REQUESTED FOR EVALUATION BY THE DIRECTOR UNLESS THE COMMISSIONER  
31 DETERMINES THAT SUCH A REFERRAL WILL CONSTITUTE A SECURITY RISK.

32 4-304.

33 [(a) An] UNLESS PREVIOUSLY RELEASED ON PAROLE OR MANDATORY  
34 SUPERVISION, AN inmate confined at the Institution shall be released on expiration of  
35 sentence [or under mandatory supervision, as defined in § 7-101 of this article, in the

1 same manner and subject to the same conditions as if the inmate were being released  
2 from a correctional facility in the Division of Correction.

3 (b) The Director shall notify the Commissioner 30 days before each release].

4 4-306.

5 (c) (1) In this subsection, "major violation" includes:

6 (i) escape from parole, work release, or leave;

7 (ii) failure to return from parole, work release, or leave within 1  
8 hour of the time due, unless the failure to return was due to causes beyond the control  
9 of the eligible person;

10 (iii) commission of a new crime, other than a minor traffic violation,  
11 while on parole, work release, or leave;

12 (iv) commission of a [major] CATEGORY I violation of the  
13 [Institution's] DEPARTMENT'S disciplinary rules; AND

14 [(v) violation of any parole, work release, or leave rule not  
15 categorized as a minor violation under the regulations of the Institution; and]

16 [(vi) (V) use of a controlled dangerous substance that the eligible  
17 person is not entitled to use under the laws of the State.

18 (2) Except as provided in paragraph (3) of this subsection, if an eligible  
19 person commits a major violation while on parole, work release, or leave, the eligible  
20 person shall be confined to the Institution and shall be ineligible for parole, work  
21 release, or leave for at least 6 months.

22 (3) If the Board of Review or the Secretary determines that a major  
23 violation was severe enough to warrant removing an eligible person from the  
24 Institution, the eligible person may be removed from the Institution and returned to  
25 the Division of Correction to serve the remainder of the eligible person's original  
26 sentence.

27 (4) If an eligible person commits a second major violation while on  
28 parole, work release, or leave, the eligible person shall be removed from the  
29 Institution and returned to the Division of Correction to serve the remainder of the  
30 eligible person's original sentence.

31 4-401.

32 (a) In this section, "Youth Program" means the Patuxent Institution Youth  
33 Program.

34 (b) There is a Patuxent Institution Youth Program.

1 (c) This section applies to an individual under the age of 21 years who is  
2 sentenced to a term of imprisonment of 3 years or more.

3 (d) At sentencing, a court may refer an individual to the Institution for  
4 evaluation.

5 (e) The Director shall:

6 (1) review recommendations of a court for admission of an individual to  
7 the Youth Program; and

8 (2) admit or deny admission of an individual based on the criteria for  
9 admission established under subsection [(i)] (J) of this section.

10 (F) AN INMATE'S STATUS IN THE YOUTH PROGRAM SHALL BE REVIEWED BY  
11 THE BOARD OF REVIEW ON AN ANNUAL BASIS.

12 (G) THE BOARD OF REVIEW MAY GRANT AN INMATE IN THE YOUTH PROGRAM  
13 LEAVE, WORK OR SCHOOL RELEASE, OR PAROLE ACCORDING TO THE SAME  
14 PROCEDURES AND WITH THE SAME NOTICE TO VICTIMS AS REQUIRED WITH  
15 RESPECT TO THE ELIGIBLE PERSON PROGRAM.

16 [(f)] (H) If an individual is transferred to the Youth Program under this  
17 section, the duration of the transfer to the Institution shall terminate when:

18 (1) the Director orders the individual transferred to the Division of  
19 Correction;

20 (2) THE BOARD OF REVIEW ORDERS THE INDIVIDUAL TRANSFERRED TO  
21 THE DIVISION OF CORRECTION;

22 [(2)] (3) with the approval of the Secretary, the Board of Review orders  
23 the individual paroled; or

24 [(3)] (4) the individual completes the individual's term of confinement as  
25 provided by law.

26 [(g)] (I) An individual who is transferred to the Youth Program as provided  
27 under this section is deemed to be committed to the custody of and subject to the  
28 jurisdiction of the Institution.

29 [(h)] (J) An individual's transfer to the Youth Program does not affect the  
30 individual's eligibility for diminution credits or other privileges available by law to an  
31 individual sentenced to the custody of the Division of Correction or a local correctional  
32 facility.]

33 [(i)] (K) (1) Regulations adopted by the Secretary under § 4-208 of this title  
34 shall include regulations governing the management and operation of the Youth  
35 Program, including criteria for admission to the Youth Program.

1 (2) Regulations establishing criteria for admission to the Youth Program

2 shall:

3 (i) be consistent with this title and any other statutory

4 requirements; and

5 (ii) include criteria regarding:

6 1. the individual's age;

7 2. the individual's mental and physical condition;

8 3. the individual's amenability to treatment in the Youth  
9 Program;

10 4. the nature of the individual's crime and the individual's  
11 participation in the crime; and

12 5. the public safety.

13 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take  
14 effect October 1, 2002.