
By: **Delegates Cadden, Barkley, Bates, Levy, Niemann, and Paige**

Introduced and read first time: January 27, 2005

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Correctional Facilities - Commission on Correctional Standards**

3 FOR the purpose of altering the membership of the Commission on Correctional
4 Standards; requiring the Commission to conduct a certain audit of a certain
5 correctional facility or periodically inspect the correctional facility until a
6 certain time and send a report of each inspection to certain bodies under certain
7 circumstances; and generally relating to the Commission on Correctional
8 Standards.

9 BY repealing and reenacting, with amendments,
10 Article - Correctional Services
11 Section 8-107 and 8-114
12 Annotated Code of Maryland
13 (1999 Volume and 2004 Supplement)

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

16 **Article - Correctional Services**

17 8-107.

18 (a) The Commission consists of the following [11] 12 members:

19 (1) the Attorney General;

20 (2) the Secretary of General Services;

21 (3) the Secretary of Budget and Management; and

22 (4) the following [eight] NINE members appointed by the Governor with
23 the advice and consent of the Senate:

24 (i) two members of the public who are not directly employed in the
25 field of corrections;

- 1 (ii) two correctional personnel from State government;
- 2 (iii) two correctional personnel from local government;
- 3 (iv) one official or employee of a national correctional accreditation
4 organization; [and]
- 5 (v) one elected official from a local governing body; AND
- 6 (VI) ONE MEMBER WHO IS LICENSED, CERTIFIED, OR REGISTERED
7 BY THE STATE AS A MENTAL HEALTH OR MEDICAL PROFESSIONAL.

8 (b) (1) Except as provided in paragraph (2) of this subsection:

- 9 (i) the term of a member of the Commission is 3 years; and
- 10 (ii) the terms of the members of the Commission are staggered as
11 required by the terms provided for members of the Commission on October 1, 1999.

12 (2) (i) The Attorney General, Secretary of General Services, and
13 Secretary of Budget and Management shall serve as ex officio members of the
14 Commission.

15 (ii) An ex officio member of the Commission may serve personally
16 at any Commission meeting or designate a representative from the ex officio
17 member's unit who may act at any Commission meeting to the same effect as if the ex
18 officio member were personally present.

19 (c) (1) At the end of a term, a member continues to serve until a successor is
20 appointed and qualifies.

21 (2) A member who is appointed after a term has begun serves only for
22 the remainder of the term and until a successor is appointed and qualifies.

23 8-114.

24 (a) (1) If the Commission determines that a correctional facility is in
25 violation of the minimum mandatory standards, the Commission shall send a
26 compliance plan to the correctional facility.

27 (2) The compliance plan shall state:

28 (i) which minimum mandatory standards the correctional facility
29 has violated;

30 (ii) the time, to be determined by the Commission, that the
31 correctional facility has to address the violations; and

32 (iii) the date that the Commission shall reinspect the correctional
33 facility to determine if the correctional facility has complied with the minimum
34 mandatory standards.

1 (3) The Commission shall send a copy of the compliance plan to the
2 executive and legislative body responsible for the correctional facility.

3 (b) (1) If, after sending a compliance plan and reinspecting a correctional
4 facility under subsection (a) of this section, the Commission determines that the
5 correctional facility is in violation of the minimum mandatory standards, the
6 Commission shall send a letter of reprimand to the correctional facility.

7 (2) The letter of reprimand shall state:

8 (i) which minimum standards the correctional facility has violated;

9 (ii) the time, to be determined by the Commission but not to exceed
10 60 days, that the correctional facility has to address the violations; and

11 (iii) the date that the Commission will reinspect the correctional
12 facility to determine if the correctional facility has complied with the minimum
13 mandatory standards.

14 (3) The Commission shall send a copy of the letter of reprimand to the
15 executive and legislative body responsible for the correctional facility.

16 (c) (1) If, after the Commission has sent a letter of reprimand to a
17 correctional facility under subsection (b) of this section and reinspected the facility,
18 the Commission determines that the correctional facility is in violation of the
19 minimum mandatory standards, the Commission shall:

20 (I) conduct a full standards and performance audit of the
21 correctional facility; OR

22 (II) PERIODICALLY INSPECT THE CORRECTIONAL FACILITY UNTIL
23 COMPLIANCE IS ATTAINED AND SEND A REPORT OF EACH INSPECTION TO THE
24 EXECUTIVE AND LEGISLATIVE BODIES RESPONSIBLE FOR THE CORRECTIONAL
25 FACILITY.

26 (2) When conducting a full standards and performance audit of a
27 correctional facility, the Commission shall examine:

28 (i) the physical condition of the correctional facility;

29 (ii) the safety and treatment of inmates at the correctional facility;

30 (iii) whether the correctional facility has policies and procedures in
31 place as required by the minimum mandatory standards; and

32 (iv) whether the correctional facility is following the required
33 policies and procedures.

34 (3) When conducting a full standards and performance audit, the
35 Commission shall have unrestricted access to the personnel and records of the
36 correctional facility.

1 (4) (i) If the Commission lacks the expertise necessary to perform a
2 part of the full standards and performance audit, the Commission may obtain
3 assistance from sources with expertise in the specific standard.

4 (ii) If the Commission needs to obtain assistance, the correctional
5 facility that is being audited shall reimburse the Commission for any cost incurred.

6 (5) (i) After completing a full standards and performance audit, the
7 Commission shall send a letter to the correctional facility.

8 (ii) The letter shall contain:

9 1. a copy of the audit findings, including details on all areas
10 where the correctional facility fails to comply with the minimum mandatory
11 standards;

12 2. a statement of what actions the correctional facility must
13 take in order to comply with the audit findings;

14 3. a date when the correctional facility must comply with the
15 audit findings; and

16 4. a statement that the Commission will conduct an
17 unannounced inspection of the correctional facility within a reasonable amount of
18 time after the date specified for compliance and that if the correctional facility fails to
19 comply, the Commission may seek a court order requiring compliance or order all or
20 part of the correctional facility to cease operations.

21 (iii) The Commission shall send a copy of the letter to the executive
22 and legislative [body] BODIES responsible for the correctional facility.

23 (6) Within a reasonable time after the date specified for compliance, the
24 Commission shall conduct an unannounced inspection to verify that the correctional
25 facility has complied with the audit findings.

26 (d) (1) If, after performing an audit and unannounced inspection under
27 subsection (c) of this section and holding a hearing on the issue, the Commission
28 determines that a correctional facility has not complied with the audit findings, the
29 Commission shall:

30 (i) petition a circuit court with venue over the proceeding for a
31 court order requiring the correctional facility to comply with the audit findings; or

32 (ii) issue an order to cease operation of the correctional facility or
33 any of its correctional elements, procedures, or functions.

34 (2) The Commission shall provide to a correctional facility reasonable
35 notice of a hearing under paragraph (1) of this subsection.

1 (3) The Commission may subpoena witnesses and hold public hearings
2 in accordance with Title 10, Subtitle 2 of the State Government Article before making
3 a final decision on whether to seek a court order or close a correctional facility or any
4 of its correctional elements, procedures, or functions.

5 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
6 effect October 1, 2005.