

HOUSE BILL 1071

J1, E4

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CF SB 322

By: **Delegate Hill**

Introduced and read first time: February 5, 2021

Assigned to: Health and Government Operations and Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Health – Health and Wellness Standards – Correctional Facilities and Health**
3 **Care Facilities**

4 FOR the purpose of requiring the Secretary of Public Safety and Correctional Facilities,
5 with the advice of the Secretary of Health, to update certain minimum mandatory
6 standards for inmate food services to reflect certain practices and guidelines, on or
7 before a certain date and with certain frequency thereafter; requiring that certain
8 minimum standards include a procedure for an inmate to elect to change to certain
9 food and beverage options without requiring a certain exception and require an
10 inmate to provide adequate notice of any dietary requirements; establishing that a
11 certain election and a certain notice remain valid for a certain period of time and
12 shall be renewed automatically except under certain circumstances; requiring that
13 certain rules and regulations adopted by the Secretary of Health that set standards
14 for dietary matters for certain facilities include requiring that the facility's menus
15 and alternative food locations comply with certain standards on or before a certain
16 date; requiring the Secretary of Health to adopt certain health and wellness
17 standards for certain health care facilities; providing that certain standards may
18 exceed any comparable standards set by federal law; establishing the Correctional
19 Facilities Health and Wellness Pilot Program; requiring the Secretary of Public
20 Safety and Correctional Services to designate a certain number of State correctional
21 facilities to participate in the Pilot Program; establishing the purpose of the Pilot
22 Program; requiring each facility participating in the Pilot Program to comply with
23 certain health and wellness standards, offer certain options for general consumption
24 in a certain manner, provide certain information and resources to certain health care
25 providers, provide certain information to inmates, and establish certain guidelines;
26 requiring the Secretary of Health to adopt certain health and wellness standards for
27 the correctional facilities participating in the Pilot Program; requiring the Secretary
28 of Public Safety and Correctional Services to report to the Office of Minority Health
29 and Health Disparities and the General Assembly on or before a certain date;
30 providing for the application of certain provisions of this Act; providing for the
31 termination of certain provisions of this Act; defining certain terms; stating the

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 intent of the General Assembly; and generally relating to health and wellness
2 standards in correctional facilities and health care facilities.

3 BY repealing and reenacting, with amendments,
4 Article – Correctional Services
5 Section 8–103
6 Annotated Code of Maryland
7 (2017 Replacement Volume and 2020 Supplement)

8 BY repealing and reenacting, with amendments,
9 Article – Health – General
10 Section 19–308(a)
11 Annotated Code of Maryland
12 (2019 Replacement Volume and 2020 Supplement)

13 BY adding to
14 Article – Health – General
15 Section 21–1301 and 21–1302 to be under the new subtitle “Subtitle 13. Health and
16 Wellness Standards”
17 Annotated Code of Maryland
18 (2019 Replacement Volume and 2020 Supplement)

19 Preamble

20 WHEREAS, According to research by the Office of Minority Health and Health
21 Disparities in the Maryland Department of Health, incarcerated individuals in Maryland
22 have a higher burden of chronic diseases that is more than double the rate of the general
23 population, including diseases like diabetes (5% of inmates vs. 2.4% of noninmates), chronic
24 respiratory conditions such as chronic obstructive pulmonary disease (34.1% of inmates vs.
25 19.2% of noninmates), and liver disease (10% of inmates vs. 0.6% of noninmates); and

26 WHEREAS, On January 23, 2020, the Public News Service reported that Maryland’s
27 prisons have the highest percentage of imprisoned African Americans in the nation, at 70%
28 of the total prison population compared to 30% of the State population; and

29 WHEREAS, On November 14, 2020 the Centers for Disease Control and Prevention
30 reported that African American, Hispanic, and Native American people are four times more
31 likely to be hospitalized due to COVID–19, suffer greater rates of COVID–19 complications,
32 and are at a higher risk of death because they suffer higher rates of heart disease, diabetes,
33 hypertension, and other conditions which cause more severe reactions to COVID–19; and

34 WHEREAS, As of November 16, 2020, the Department of Public Safety and
35 Corrections reported that 1,199 inmates have tested positive for the virus that causes
36 COVID–19 and from March 2020, through November 2020, 13 inmates died from
37 COVID–19; and

38 WHEREAS, According to the Maryland Division of Correction 2018 Annual Report,

1 approximately \$159 million was spent on health, clinical, and hospital services at
2 approximately \$7,950 spent per inmate for approximately 20,000 inmates, which is
3 approximately three times the cost spent on prison food costs in the same year at \$55
4 million; and

5 WHEREAS, It has been shown that a nutritionally balanced diet, rich in plant-based
6 foods, boosts the immune system's ability to combat viral infections; and

7 WHEREAS, Hira Shakoor, et al., in an August 2020 article published by Maturitas,
8 concludes that Vitamins C, D, and E, zinc, selenium, and omega-3 fatty acids, all of which
9 are found in high amounts in fruits, vegetables, and legumes, conceivably have a role in the
10 recovery of COVID-19 patients through enhancements of the immune system's ability to
11 fight infection, inflammation, and swelling; and

12 WHEREAS, According to the 2017 Special Report by the Maryland Department of
13 Public Safety and Correctional Services regarding the Monitoring of Contractor
14 Performance for the Assessment of Liquidated Damages, approximately 104,000
15 medication prescriptions were administered on a monthly basis to inmates statewide; and

16 WHEREAS, Research has shown that the consumption of plant-based meals rich in
17 complex carbohydrate foods (such as beans, lentils, grains, potatoes, pasta, and oranges)
18 can reduce and even reverse chronic degenerative diseases that require lifelong reliance on
19 medications to manage and can reduce overall health care costs and prison food costs; and

20 WHEREAS, In April 2015, a jail in Arizona went vegetarian and, by spending money
21 on meatless food, the prison saved \$200,000 in the first year of the program; and

22 WHEREAS, Maryland could save millions of dollars annually in health care costs
23 that could be reinvested into reentry programs by reducing the purchase of animal foods
24 and animal-based beverages and by providing plant-based food whole meals a few days
25 during the week; and

26 WHEREAS, Dariush Mozaffarian, M.D., Dean of the Tufts Friedman School of
27 Nutrition Science and Policy, wrote in the article "Doctors Prescribing Fruits and Veggies:
28 Why Nutrition Policy is a National Priority", in summary, that medically tailored
29 plant-based meals prescribed to patients are associated with "reduced hospitalizations,
30 emergency room visits, and overall health care spending", and that the 2018 Produce
31 Prescription Program, which allows physicians to prescribe fruits and vegetables to treat
32 degenerative disease, could reduce health care costs if implemented by more physicians;
33 and

34 WHEREAS, Medical schools and university allied health programs offer limited
35 training to physicians and health care professionals in nutrition and almost no training in
36 plant-based and lifestyle medicine that can help reduce Maryland health care costs in
37 prisons and hospitals; and

38 WHEREAS, Physicians must complete 50 hours of continuing medical education

1 every 2 years, some of which can be used to acquire knowledge of plant-based nutrition
2 and lifestyle medicine; and

3 WHEREAS, To address the health concerns of inmates and to lower the cost of
4 inmate health care, including prescription drug costs, while also lowering recidivism rates
5 in California prisons, the California Legislature passed SB 1138 in 2018, mandating
6 plant-based meal options in prisons and hospitals; and

7 WHEREAS, The New York Legislature passed A.4072 in 2019 mandating
8 plant-based meal options in hospitals; and

9 WHEREAS, Since 2011, the Federal Bureau of Prisons has provided plant-based
10 meals and beverages on demand in every meal in its over 150 correctional facilities; now,
11 therefore,

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

14 **Article – Correctional Services**

15 8–103.

16 (a) (1) **[With] SUBJECT TO SUBSECTIONS (D) AND (E) OF THIS SECTION**
17 **AND WITH** the advice of the Commission, the Secretary shall adopt regulations that
18 establish minimum mandatory standards applicable to security and inmate control, inmate
19 safety, inmate food services, inmate housing and sanitation, inmate rights, classification,
20 hearings, victim notification, restitution, and administrative record keeping.

21 (2) The minimum mandatory standards adopted under paragraph (1) of
22 this subsection shall apply to all State and local correctional facilities.

23 (b) (1) With the advice of the Commission, the Secretary shall adopt
24 regulations that establish approved standards applicable to personnel, training,
25 administration, management, planning and coordination, research and evaluation,
26 physical plant, special management inmates, rules and discipline, mail and visiting,
27 reception and orientation, property control, work programs, educational and vocational
28 training, library services, religious services, recreational activities, counseling, release
29 preparation, and volunteers.

30 (2) The approved standards adopted under paragraph (1) of this
31 subsection:

32 (i) shall apply to all State correctional facilities; and

33 (ii) may be adopted, as a whole or in part, by a local correctional
34 facility.

1 (c) The standards adopted under this section shall be consistent with federal and
2 State law.

3 (D) ON OR BEFORE JANUARY 1, 2022, AND AT LEAST EVERY 5 YEARS
4 THEREAFTER, THE SECRETARY, WITH THE ADVICE OF THE SECRETARY OF HEALTH,
5 SHALL UPDATE THE MINIMUM MANDATORY STANDARDS FOR INMATE FOOD
6 SERVICES ADOPTED UNDER SUBSECTION (A) OF THIS SECTION TO REFLECT
7 CURRENT NUTRITIONAL BEST PRACTICES AND SCIENTIFIC GUIDELINES.

8 (E) (1) THE MINIMUM MANDATORY STANDARDS FOR INMATE FOOD
9 SERVICES ADOPTED UNDER SUBSECTION (A) OF THIS SECTION SHALL:

10 (I) WITHOUT REQUIRING A RELIGIOUS OR MEDICAL
11 EXCEPTION, INCLUDE A PROCEDURE FOR AN INMATE TO ELECT TO CHANGE FOOD
12 AND BEVERAGE OPTIONS TO ANY OF THE FOLLOWING:

- 13 1. KOSHER;
14 2. HALAL;
15 3. DIABETIC; OR
16 4. ANY OTHER DIET THAT IS AVAILABLE TO AN INMATE;
17 AND

18 (II) REQUIRE AN INMATE TO PROVIDE ADEQUATE NOTICE OF
19 ANY DIETARY REQUIREMENTS.

20 (2) AN ELECTION TO CHANGE FOOD AND BEVERAGE OPTIONS OR A
21 NOTICE OF DIETARY REQUIREMENTS PROVIDED IN ACCORDANCE WITH THE
22 MINIMUM MANDATORY STANDARDS REQUIRED UNDER PARAGRAPH (1) OF THIS
23 SUBSECTION SHALL:

24 (I) REMAIN VALID FOR 6 MONTHS; AND

25 (II) BE RENEWED AUTOMATICALLY, UNLESS THE INMATE
26 PROVIDES ADDITIONAL NOTICE, IN WRITING, OF A CHANGE TO THE INMATE'S DIET.

27 Article – Health – General

28 19–308.

29 (a) The Secretary shall adopt reasonable rules and regulations that set standards
30 of services for related institutions, accredited hospitals, nonaccredited hospitals, accredited

1 residential treatment centers, and nonaccredited residential treatment centers in the
2 following areas:

3 (1) The care of patients;

4 (2) The medical supervision of patients;

5 (3) The physical environment;

6 (4) Disease control;

7 (5) Sanitation;

8 (6) Safety; and

9 (7) Dietary matters, INCLUDING REQUIRING THAT, ON OR BEFORE
10 **OCTOBER 1, 2022, THE FACILITIES' MENUS AND ALTERNATIVE FOOD LOCATIONS**
11 **COMPLY WITH THE HEALTH AND WELLNESS STANDARDS ESTABLISHED UNDER §**
12 **21-1302(B) OF THIS ARTICLE.**

13 **SUBTITLE 13. HEALTH AND WELLNESS STANDARDS.**

14 **21-1301.**

15 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
16 INDICATED.

17 (B) (1) "LIFESTYLE MEDICINE" MEANS THE BRANCH OF MEDICINE
18 DEALING WITH RESEARCH, PREVENTION, AND TREATMENT OF DISORDERS CAUSED
19 BY LIFESTYLE FACTORS, INCLUDING NUTRITION, PHYSICAL INACTIVITY, AND
20 CHRONIC STRESS, AS DEFINED BY THE AMERICAN COLLEGE OF LIFESTYLE
21 MEDICINE.

22 (2) "LIFESTYLE MEDICINE" INCLUDES THE EVIDENCE-BASED
23 THERAPEUTIC USE OF A PLANT-BASED, WHOLE FOOD-PREDOMINANT DIETARY
24 LIFESTYLE, REGULAR PHYSICAL ACTIVITY, RESTORATIVE SLEEP, STRESS
25 MANAGEMENT, AVOIDANCE OF SUBSTANCES THAT INCREASE THE RISK OF
26 DEVELOPING CHRONIC DEGENERATIVE DISEASE OR DEATH BASED ON EMPIRICAL
27 EVIDENCE, AND POSITIVE SOCIAL CONNECTION AS PRIMARY MODALITIES FOR
28 TREATMENT AND REVERSAL OF CHRONIC DISEASE.

29 (C) "PLANT-BASED BEVERAGE" MEANS A BEVERAGE THAT:

30 (1) CONTAINS NO ANIMAL PRODUCTS OR BYPRODUCTS, INCLUDING
31 DAIRY FROM ANY ANIMAL; AND

1 **(2) IS COMPARABLE TO THE NONPLANT-BASED BEVERAGE OPTION IT**
2 **REPLACES.**

3 **(D) “PLANT-BASED FOOD OPTION” MEANS A FOOD THAT CONTAINS NO**
4 **ANIMAL PRODUCTS OR BYPRODUCTS, INCLUDING MEAT, POULTRY, SEAFOOD,**
5 **DAIRY, AND EGGS.**

6 **(E) “PLANT-BASED MEAL OPTION” MEANS A MEAL THAT:**

7 **(1) CONTAINS NO ANIMAL PRODUCTS OR BYPRODUCTS, INCLUDING**
8 **MEAT, POULTRY, SEAFOOD, DAIRY, AND EGGS; AND**

9 **(2) HAS A NUTRITIONAL VALUE THAT IS COMPARABLE TO THE**
10 **NONPLANT-BASED MEAL OPTION IT REPLACES.**

11 **(F) “PLANT-BASED NUTRITION” MEANS THE PROCESS OF PROVIDING OR**
12 **OBTAINING PLANT-BASED FOODS AND BEVERAGES NECESSARY FOR HEALTH AND**
13 **GROWTH THAT CAN BE CONSUMED IN VARIOUS COMBINATIONS.**

14 **21-1302.**

15 **(A) THIS SECTION APPLIES TO ACCREDITED HOSPITALS, NONACCREDITED**
16 **HOSPITALS, ACCREDITED RESIDENTIAL TREATMENT CENTERS, AND**
17 **NONACCREDITED RESIDENTIAL TREATMENT CENTERS FOR WHICH THE SECRETARY**
18 **ADOPTS REGULATIONS UNDER § 19-308 OF THIS ARTICLE.**

19 **(B) SUBJECT TO SUBSECTION (C) OF THIS SECTION, THE SECRETARY SHALL**
20 **ADOPT HEALTH AND WELLNESS STANDARDS FOR FACILITIES LISTED IN SUBSECTION**
21 **(A) OF THIS SECTION THAT INCLUDE:**

22 **(1) REQUIRING THE FACILITY TO OFFER PLANT-BASED MEAL**
23 **OPTIONS, PLANT-BASED FOOD OPTIONS, AND PLANT-BASED BEVERAGES FOR**
24 **GENERAL CONSUMPTION BY ENSURING THAT A PLANT-BASED MEAL OPTION IS**
25 **AVAILABLE AT THE REQUEST OF A PATIENT OR THE PATIENT’S LAWFUL**
26 **REPRESENTATIVE, IN THE MANNER REQUIRED BY THE FACILITY, AT EACH MEAL**
27 **LISTED ON THE FACILITY’S MENUS;**

28 **(2) PROVIDING INFORMATION AND RESOURCES TO HEALTH CARE**
29 **PROVIDERS WHO PROVIDE SERVICES IN THE FACILITIES ON AVAILABLE TRAINING**
30 **AND BOARD CERTIFICATION ON THE DELIVERY OF PLANT-BASED NUTRITION,**
31 **PRESCRIPTIONS MADE UNDER THE PRODUCE PRESCRIPTION PROGRAM**
32 **ESTABLISHED UNDER 7 U.S.C. § 7517(C), AND LIFESTYLE MEDICINE WITH THE GOAL**

1 OF REDUCING HEALTH CARE COSTS AND IMPROVING THE HEALTH CONDITION AND
2 OUTCOMES OF PATIENTS; AND

3 (3) GUIDELINES THAT INCREASE THE AVAILABILITY OF
4 PLANT-BASED MEAL OPTIONS, PLANT-BASED FOOD OPTIONS, AND PLANT-BASED
5 BEVERAGES IN ALTERNATIVE FOOD LOCATIONS IN THE FACILITY, INCLUDING
6 VENDING MACHINES AND INMATE COMMISSARIES, INCLUDING GUIDELINES FOR:

7 (I) ENSURING THAT PLANT-BASED FOOD OPTIONS ARE
8 OFFERED AT THE SAME OR A LOWER COST WHEN COMPARED TO NONPLANT-BASED
9 FOOD OPTIONS; AND

10 (II) LOWERING THE AMOUNT OF SODIUM, SATURATED FAT, AND
11 SUGAR IN ALL FOODS AVAILABLE IN ALTERNATIVE FOOD LOCATIONS.

12 (C) THE STANDARDS ADOPTED UNDER SUBSECTION (B) OF THIS SECTION
13 MAY EXCEED ANY COMPARABLE STANDARDS SET BY FEDERAL LAW.

14 SECTION 2. AND BE IT FURTHER ENACTED, That:

15 (a) (1) In this section the following words have the meanings indicated.

16 (2) “Lifestyle medicine” has the meaning stated in § 21–1301 of the Health
17 – General Article, as enacted by Section 1 of this Act.

18 (3) “Pilot Program” means the Correction Facilities Health and Wellness
19 Pilot Program.

20 (4) “Plant-based beverage” has the meaning stated in § 21–1301 of the
21 Health – General Article, as enacted by Section 1 of this Act.

22 (5) “Plant-based food option” has the meaning stated in § 21–1301 of the
23 Health – General Article, as enacted by Section 1 of this Act.

24 (6) “Plant-based meal option” has the meaning stated in § 21–1301 of the
25 Health – General Article, as enacted by Section 1 of this Act.

26 (7) “Plant-based nutrition” has the meaning stated in § 21–1301 of the
27 Health – General Article, as enacted by Section 1 of this Act.

28 (b) (1) There is a Correctional Facilities Health and Wellness Pilot Program.

29 (2) The purpose of the Pilot Program is to establish minimum mandatory
30 standards for inmate food services for the correctional facilities participating in the Pilot
31 Program.

1 (3) The Secretary of Public Safety and Correctional Services shall
2 designate four State correctional facilities to participate in the Pilot Program.

3 (c) Each correctional facility participating in the Pilot Program shall:

4 (1) comply with health and wellness standards set by the Secretary of
5 Health for the purposes of the Pilot Program;

6 (2) offer plant-based meal options, plant-based food options, and
7 plant-based beverages for general consumption by:

8 (i) providing at least one plant-based meal option and at least one
9 plant-based beverage to all inmates at each meal at least 1 day each week; and

10 (ii) offering one plant-based meal option and one plant-based
11 beverage option to an inmate at every meal on request;

12 (3) in consultation with the Secretary of Health, provide information and
13 resources to health care providers who provide services in the correctional facility on
14 available training and board certification on the delivery of plant-based nutrition,
15 prescriptions made under the Produce Prescription Program established under 7 U.S.C. §
16 7517(c), and lifestyle medicine with the goal of reducing health care costs and improving
17 the health condition and outcomes of patients;

18 (4) provide information to all inmates and to new inmates on an inmate's
19 first day in the facility on the benefits and availability of plant-based meal options,
20 plant-based food options, and plant-based beverages, including commissary options;

21 (5) in consultation with the Secretary of Health, establish guidelines that
22 increase the availability of plant-based meal options, plant-based food options, and
23 plant-based beverages in alternative food locations in the facility, including vending
24 machines and inmate commissaries, including guidelines for:

25 (i) ensuring that plant-based food options are offered at the same
26 or a lower cost when compared to nonplant-based food options; and

27 (ii) lowering the amount of sodium, saturated fat, and sugar in all
28 foods available in alternative food locations; and

29 (6) in consultation with the Secretary of Health, establish guidelines for
30 the preparation of plant-based meal options by the facility that considers the taste
31 preferences of the population served, measured by taste-test surveys conducted by each
32 facility surveying a representative sample of individuals served in the facility.

33 (d) (1) The Secretary of Health shall set health and wellness standards for
34 correctional facilities participating in the Pilot Program that are consistent with guidelines

1 from the American College of Lifestyle Medicine or any other recognized alternative
2 lifestyle authority.

3 (2) The standards set under paragraph (1) of this subsection may exceed
4 any comparable standards set by federal law.

5 (e) On or before October 1, 2023, the Secretary of Public Safety and Correctional
6 Services shall report to the Office of Minority Health and Health Disparities and, in
7 accordance with § 2–1257 of the State Government Article, the General Assembly on:

8 (1) the number of inmates at each facility participating in the Pilot
9 Program who requested plant–based meal and plant–based beverage options;

10 (2) (i) the health status of the population served:

11 1. for the 5 years immediately preceding the beginning of the
12 Pilot Program; and

13 2. at the completion of the Pilot Program;

14 (ii) the health status information required under item (i) of this item,
15 including:

16 1. all illnesses experienced by inmates, differentiated by age,
17 gender, race, birth state, and facility location; and

18 2. any change in illnesses or diagnoses of inmates that may
19 result from the implementation of the health and wellness food standards under subsection
20 (d) of this section or as a result of any other prescribed treatment;

21 (3) the number of inmates in the Pilot Program who transferred to:

22 (i) a prison rehabilitation unit;

23 (ii) a prison hospice unit;

24 (iii) a hospital; or

25 (iv) any other outside medical care facility for admissions or
26 procedures related to diagnoses of diabetes, cardiovascular disease, pulmonary disease,
27 cancer, chronic respiratory conditions, and liver disease;

28 (4) the annual health care cost for:

29 (i) each of the 5 immediately preceding years before the beginning
30 of the Pilot Program; and

1 (ii) each year of the Pilot Program; and

2 (5) data compared between the Pilot Program and correctional facilities
3 that did not participate in the Pilot Program for the same period.

4 SECTION 3. AND BE IT FURTHER ENACTED, That it is the intent of the General
5 Assembly that the health and wellness standards developed by the Maryland Department
6 of Health under Section 1 of this Act and the pilot program established under Section 2 of
7 this Act be developed, adopted, and implemented using the Department's existing
8 resources.

9 SECTION 4. AND BE IT FURTHER ENACTED, That the standards required to be
10 adopted under § 21-1302(b)(1) of the Health – General Article, as enacted by Section 1 of
11 this Act, shall apply to:

12 (1) food and beverage contracts entered into or renewed by a facility on or
13 after the effective date of this Act; and

14 (2) a contract, an agreement, or any other arrangement between a
15 correctional facility and a food and beverage contractor entered into on or before the
16 effective date of this Act if:

17 (i) the standards can be implemented without an increase of the
18 price for the food or food services charged under the contract, agreement, or other
19 arrangement; or

20 (ii) the appropriate local government agency approves any price
21 increase for food or food services under the contract, agreement, or other arrangement that
22 would result from the implementation of the standards.

23 SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect
24 October 1, 2021. Section 2 of this Act shall remain effective for a period of 2 years and, at
25 the end of September 30, 2023, Section 2 of this Act, with no further action required by the
26 General Assembly, shall be abrogated and of no further force and effect.