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**By: Delegates Kelly, Edwards, Donoghue, Harkins, O'Donnell, E. Burns, Turner, D. Murphy, Hutchins, Bissett, Grosfeld, Perry, M. Burns, and Jacobs**

Introduced and read first time: February 2, 1996

Assigned to: Judiciary

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A BILL ENTITLED

1 AN ACT concerning

2 **Inmates - Murder - Eligibility for Leave**

3 FOR the purpose of making an inmate who has been sentenced to the Division of  
4 Correction or the Patuxent Institution after being convicted of murder ineligible for  
5 certain types of leave; and generally relating to murder and an inmate's eligibility  
6 for certain types of leave.

7 BY repealing and reenacting, with amendments,  
8 Article 27 - Crimes and Punishments  
9 Section 700A, 700D, and 700D-1  
10 Annotated Code of Maryland  
11 (1992 Replacement Volume and 1995 Supplement)

12 BY repealing and reenacting, without amendments,  
13 Article 31B - Patuxent Institution  
14 Section 10  
15 Annotated Code of Maryland  
16 (1993 Replacement Volume and 1995 Supplement)

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

19 **Article 27 - Crimes and Punishments**

20 700A.

21 (a) (1) [The] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS  
22 SUBSECTION, THE Department of Correction is authorized to establish a "work-release"  
23 program under which prisoners sentenced to the jurisdiction of the Department may be  
24 granted the privilege of leaving actual confinement during necessary and reasonable  
25 hours for the purpose of working at gainful private or public employment or attending  
26 school as part of a work-release program. Such program may also include, under  
27 appropriate conditions, releases for the purpose of seeking such employment.

1 (2) A PERSON WHO HAS BEEN SENTENCED TO A TERM OF  
2 IMPRISONMENT AFTER BEING CONVICTED OF MURDER MAY NOT BE GRANTED  
3 LEAVE UNDER THIS SECTION.

4 (b) A prisoner eligible to participate in the "work-release" program in  
5 accordance with the preceding subsection may make application to the warden or  
6 superintendent of the institution in which he is confined for permission to participate in  
7 such program. The application shall include a statement by the prisoner that he agrees to  
8 abide by all terms and conditions of the particular plan adopted for him by the  
9 Commissioner of Correction or his designee if such application is approved, shall state  
10 the name and address of the proposed employer, if any, or of the proposed school training  
11 program, if any, and shall contain such other information as the Department or the  
12 Commissioner may require, including the prisoner's agreement to waive his right to  
13 contest extradition proceedings. The warden or superintendent may, in his discretion,  
14 recommend such application to the Commissioner. The Commissioner or his designee  
15 may approve, disapprove, or defer action on said recommendation. In the event of  
16 approval the Commissioner or his designee shall adopt a "work-release plan" for such  
17 prisoner which shall contain such terms and conditions as may be necessary and proper;  
18 and such plan shall be signed by the prisoner prior to his participation in the program. At  
19 any time after approval has been granted, it may be revoked for any reason by the  
20 Commissioner.

21 (b-1) (1) Any prisoner who has participated for at least two (2) months in the  
22 work-release program as authorized by this section may be granted weekend leave;  
23 provided, however, that the prisoner shall have the recommendation of his direct  
24 supervisor in the work-release program.

25 (2) Final authorization and the terms and conditions for such leave shall be  
26 granted only by the Commissioner of Correctional Services and may be conditioned upon  
27 the prisoner's agreement to waive his right to contest extradition proceedings. A weekend  
28 shall consist of a period of time no longer than from 6:00 p.m. Friday to 6:00 p.m. the  
29 Sunday immediately following.

30 (c) The Department shall designate and adopt facilities in the institutions and  
31 camps under its jurisdiction for the housing of prisoners granted "work-release"  
32 privileges. In areas where such facilities are not within reasonable proximity of the place  
33 of employment of a prisoner so released, the Department may contract with the proper  
34 authorities of political subdivisions of this State for the quartering of such prisoner in  
35 suitable local confinement facilities. In the "work-release" plan of any prisoner, the  
36 Commissioner shall include as a specific term or condition the place where such prisoner  
37 is to be confined when not released for the purposes of the "work-release" program. If  
38 any prisoner released from actual confinement under a "work-release" plan shall wilfully  
39 fail to return to the place of confinement so designated at the time specified in such plan,  
40 he shall be guilty of a felony and, upon conviction, shall be subject to the penalties  
41 provided in § 139 of this article.

42 (d) A prisoner employed in the community under a "work-release" plan shall  
43 surrender to the Division of Correction his total earnings, less payroll deductions  
44 required by law. The Division shall deduct from these earnings, in the following order of  
45 priority, an amount determined to be the cost to the State of providing food, lodging and

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1 clothing for the prisoner; fees assessed under Article 41, § 4-104 of the Code; the actual  
2 and necessary food, travel and other expenses of the prisoner when released from actual  
3 confinement under the program; the amount which the prisoner may be legally obligated  
4 to pay for the support of his dependents, which amount shall be paid to the dependents  
5 through the local social services administration in the county or city in which the  
6 dependents reside; and the amount ordered to be paid by the court as restitution. Any  
7 balance remaining after these deductions and payments shall be credited to the prisoner's  
8 account and shall be paid to him upon release. In those cases in which the prisoner's final  
9 earnings under a work-release plan are required to satisfy the obligatory deductions set  
10 forth in this subsection, the balance of such earnings shall be forwarded to the prisoner  
11 within 15 days of the date of his release from the Division's jurisdiction.

12 (e) No prisoner employed in the community under the provisions of this section  
13 shall be deemed to be an agent, employee or involuntary servant of the Department of  
14 Correction while released from confinement pursuant to the terms of any "work-release"  
15 plan. The provisions of § 4-701 of Article 41 shall not apply in the event of any injuries  
16 sustained in the gainful private employment of any prisoner released under a  
17 "work-release" plan.

18 (f) Nothing in this section shall be construed to affect eligibility for parole, as  
19 provided in Article 41, or diminution of confinement, as provided in § 700 of this article,  
20 of any prisoner released under a "work-release" plan.

21 700D.

22 (A) [Upon] EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION,  
23 UPON the recommendation of treatment staff, with the approval of the warden or  
24 superintendent of any State penal or reformatory institution under his jurisdiction, the  
25 Commissioner of Correction or the Deputy Commissioner of Correction may authorize  
26 special leave to an inmate either within or without this State to leave an institution for  
27 participation in special community or other meritorious programs or activities deemed  
28 beneficial to the inmate, and not detrimental to the public, by both the warden or  
29 superintendent and the Commissioner of Correction and which in their judgment would  
30 contribute to the rehabilitation process of the respective inmate. To be considered for this  
31 special leave the inmate shall be eligible solely upon the concurrence of the warden or  
32 superintendent and the Commissioner of Correction that positive attitudinal and growth  
33 patterns are being established. All special leaves must be issued in writing and must be  
34 signed by both the warden or superintendent and by the Commissioner of Correction or  
35 the Deputy Commissioner of Correction, and this authority may not be delegated. As a  
36 condition of granting such leave, the Commissioner may require the inmate's agreement  
37 to waive his right to contest extradition proceedings. All such orders must be kept on file  
38 in the Department. Special leave may only be for the purpose of:

- 39 (1) Attending educational programs;
- 40 (2) Improving job skills;
- 41 (3) Attending trade licensing examinations;
- 42 (4) Being interviewed for employment;

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1 (5) Participating as a volunteer for a governmental agency in an activity  
2 serving the general public;

3 (6) Participating in athletic competition; or

4 (7) Participating in civic activities beneficial to the inmate and/or the  
5 community.

6 (B) A PERSON WHO HAS BEEN SENTENCED TO A TERM OF IMPRISONMENT  
7 AFTER BEING CONVICTED OF MURDER MAY NOT BE GRANTED LEAVE UNDER THIS  
8 SECTION.

9 700D-1.

10 (a) (1) [The] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS  
11 SUBSECTION, THE Commissioner of Correction may authorize family leave in accordance  
12 with the provisions of this section for an inmate confined in any of the institutions  
13 enumerated in § 689 of this article, as amended from time to time, but only if the inmate  
14 is considered to be in minimum security status.

15 (2) A PERSON WHO HAS BEEN SENTENCED TO A TERM OF  
16 IMPRISONMENT AFTER BEING CONVICTED OF MURDER MAY NOT BE GRANTED  
17 LEAVE UNDER THIS SECTION.

18 (b) Leave may be authorized for an inmate for the purpose of visiting with his  
19 family, but only if the inmate has been classified in minimum security status and has the  
20 recommendation of the institutional classification team and the warden.

21 (c) Leave may be granted only upon the written approval of the Commissioner or  
22 his designee. When he approves a leave, he shall issue an authorization to the inmate for  
23 the leave which specifies the conditions of the leave. At the same time, a copy of the leave  
24 authorization shall be filed by the Commissioner in his office as a public record. At all  
25 times while on leave, the inmate shall have in his possession a copy of the leave  
26 authorization.

27 (d) The duration of any family leave shall be a reasonable time.

28 (e) The Commissioner is authorized to adopt reasonable regulations necessary to  
29 carry out the power granted herein.

30 (f) Failure to comply with the terms of an authorization for leave shall be  
31 considered a violation of the provisions of § 139 of this article, as amended from time to  
32 time.

33 **Article 31B - Patuxent Institution**

34 10.

35 (a) Subject to § 11A of this article, persons transferred to the Institution for  
36 treatment are eligible for the work release and leave of absence programs provided for in  
37 §§ 700A through 700D-1 of Article 27 of the Code. The functions of the warden and the  
38 Commissioner under those sections shall be performed by the board of review with  
39 respect to persons confined in the Institution.

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1           (b) (1) The board of review may not grant an eligible person work release or  
2 leave under this section until it provides by mail written notice to the victim that it intends  
3 to decide whether to grant work release or leave to the eligible person.

4           (2) The board of review shall give the victim a reasonable opportunity to  
5 comment in writing on work release or leave before the board of review decides whether  
6 to grant work release or leave status to an eligible person.

7           (3) The board of review shall promptly notify the victim of the decision of  
8 the board of review regarding leave or work release.

9           (4) The victim may designate, in writing to the board of review, the name  
10 and address of a representative, who is a resident of this State, to receive notice for the  
11 victim.

12           (5) The board of review shall delete the victim's address and phone number  
13 before examination of any document by the eligible person or the eligible person's  
14 representative.

15           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
16 October 1, 1996.