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**By: Delegate Owings**

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Assigned to: Appropriations

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A BILL ENTITLED

1 AN ACT concerning

2 **Corrections Employees' Bill of Rights**

3 FOR the purpose of establishing an exclusive procedural remedy for certain personnel of  
4 the Department of Public Safety and Correctional Services in certain disciplinary  
5 hearings; specifying the scope of this Act; ensuring that certain corrections  
6 employees have a right to engage in certain political activity; ensuring that certain  
7 corrections personnel have a right to assemble and to petition grievances; ensuring  
8 that certain personnel are entitled to a workplace free of health hazards and risks;  
9 ensuring that certain corrections employees have the right to a work environment  
10 free of danger to personal safety; ensuring that certain correction employees have  
11 a right to adequate salaries and benefits; ensuring that certain corrections  
12 employees have a right to be members of unions; establishing the procedures to be  
13 followed in conducting certain investigations or interrogations; specifying the rules  
14 regarding notice, attorney representation, evidence, witness fees and expenses, and  
15 summonses that are to be followed in certain hearings; specifying procedures for the  
16 issuance by an Administrative Law Judge of certain decisions, orders, or actions;  
17 providing that certain decisions may be appealed to certain courts; specifying the  
18 conditions under which certain summary punishment or emergency suspension may  
19 be imposed; prohibiting certain false statements; providing that a corrections  
20 employee may not be required or requested to disclose certain information  
21 regarding personal assets under certain conditions; ensuring that the Department  
22 may not prohibit certain secondary employment; allowing waivers of certain rights;  
23 defining certain terms; and generally relating to the rights of corrections employees  
24 and procedural remedies for corrections employees who are subject to disciplinary  
25 proceedings.

26 BY adding to

27 Article 27 - Crimes and Punishments  
28 Section 734E through 734U to be under the new subtitle "Corrections Employees'  
29 Bill of Rights"  
30 Annotated Code of Maryland  
31 (1992 Replacement Volume and 1995 Supplement)

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

2

1 **Article 27 - Crimes and Punishments**

2 CORRECTIONS EMPLOYEES' BILL OF RIGHTS

3 734E.

4 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS  
5 INDICATED.

6 (B) (1) "CORRECTIONS EMPLOYEE" MEANS ANY PERSON WHO IS  
7 EMPLOYED BY THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL  
8 SERVICES, INCLUDING:

9 (I) PAROLE AND PROBATION AGENTS;

10 (II) PRE-TRIAL RELEASE AGENTS; AND

11 (III) CORRECTIONAL OFFICERS.

12 (2) "CORRECTIONS EMPLOYEE" DOES NOT INCLUDE A LAW  
13 ENFORCEMENT OFFICER AS DESCRIBED UNDER § 727 OF THIS ARTICLE.

14 (C) "DEPARTMENT" MEANS THE DEPARTMENT OF PUBLIC SAFETY AND  
15 CORRECTIONAL SERVICES.

16 (D) "HEARING" MEANS ANY MEETING IN THE COURSE OF AN  
17 INVESTIGATORY PROCEEDING, OTHER THAN AN INTERROGATION, AT WHICH NO  
18 TESTIMONY IS TAKEN UNDER OATH, CONDUCTED BY AN APPOINTING AUTHORITY  
19 FOR THE PURPOSE OF TAKING OR ADDUCING TESTIMONY OR RECEIVING OTHER  
20 EVIDENCE.

21 (E) "INTERROGATING OFFICER", "INVESTIGATING OFFICER", AND ALL  
22 OTHER FORMS OF THOSE TERMS MEAN:

23 (1) ANY SWORN CORRECTIONS EMPLOYEE; OR

24 (2) IF REQUESTED BY THE GOVERNOR, THE ATTORNEY GENERAL OF  
25 MARYLAND OR THE ATTORNEY GENERAL'S DESIGNEE.

26 (F) "SECRETARY" MEANS THE SECRETARY OF THE DEPARTMENT OF PUBLIC  
27 SAFETY AND CORRECTIONAL SERVICES OR THE CORRECTIONS EMPLOYEE  
28 DESIGNATED BY THE SECRETARY.

29 (G) "SUMMARY PUNISHMENT" IS PUNISHMENT IMPOSED BY THE HIGHEST  
30 RANKING OFFICIAL OF A UNIT OR MEMBER ACTING IN THAT CAPACITY, WHICH MAY  
31 BE IMPOSED WHEN THE FACTS CONSTITUTING THE OFFENSE ARE NOT IN DISPUTE.  
32 SUMMARY PUNISHMENT MAY NOT EXCEED 3 DAYS SUSPENSION WITHOUT PAY OR A  
33 FINE OF \$150.

34 734F.

35 (A) A CORRECTIONS EMPLOYEE HAS THE SAME RIGHTS TO ENGAGE IN  
36 POLITICAL ACTIVITY AS ARE AFFORDED TO ANY STATE EMPLOYEE.

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1 (B) A CORRECTIONS EMPLOYEE HAS THE RIGHT TO ASSEMBLE PEACEABLY  
2 AND TO PETITION ANY GOVERNMENT AGENCY INCLUDING THE DEPARTMENT FOR  
3 A REDRESS OF GRIEVANCES.

4 (C) A CORRECTIONS EMPLOYEE'S RIGHT TO ENGAGE IN ANY ACTS UNDER  
5 SUBSECTION (A) OR SUBSECTION (B) OF THIS SECTION DOES NOT APPLY TO ANY  
6 CORRECTIONS EMPLOYEE WHEN THE CORRECTIONS EMPLOYEE IS ON DUTY OR IS  
7 ACTING IN THE CORRECTIONS EMPLOYEE'S OFFICIAL CAPACITY.

8 734G.

9 (A) A CORRECTIONS EMPLOYEE IS ENTITLED TO A REASONABLY HEALTHY  
10 WORKPLACE FREE OF HEALTH HAZARDS AND RISKS. THE DEPARTMENT SHALL  
11 TAKE REASONABLE MEASURES TO SAFEGUARD CORRECTIONS EMPLOYEES FROM  
12 KNOWN HEALTH HAZARDS AND RISKS.

13 (B) A CORRECTIONS EMPLOYEE IS ENTITLED TO A REASONABLY SAFE WORK  
14 ENVIRONMENT FREE FROM DANGER TO PERSONAL SAFETY, AND TO THE SUPPORT  
15 AND ASSISTANCE NECESSARY TO MAINTAIN ORDER AND TO CARRY OUT DUTIES  
16 WITHOUT UNDUE RISK OF HARM.

17 734H.

18 A CORRECTIONS EMPLOYEE IS ENTITLED TO AN ADEQUATE SALARY,  
19 COMPREHENSIVE BENEFITS, AND AN ADEQUATE RETIREMENT INCOME.

20 734-I.

21 A CORRECTIONS EMPLOYEE HAS THE RIGHT TO BE A MEMBER OF A UNION OF  
22 THE CORRECTIONS EMPLOYEE'S CHOOSING, AND TO EXERCISE THAT RIGHT FREE  
23 FROM INTERFERENCE, RESTRAINT, OR COERCION.

24 734J.

25 (A) WHENEVER A CORRECTIONS EMPLOYEE IS UNDER INVESTIGATION OR  
26 SUBJECTED TO INTERROGATION BY THE DEPARTMENT FOR ANY REASON THAT  
27 COULD LEAD TO DISCIPLINARY ACTION, DEMOTION, OR DISMISSAL, THE  
28 INVESTIGATION OR INTERROGATION SHALL BE CONDUCTED UNDER THE  
29 FOLLOWING CONDITIONS:

30 (1) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, THE  
31 CORRECTIONS EMPLOYEE MAY NOT BE SUSPENDED WITHOUT PAY UNTIL A FULL  
32 HEARING BY THE OFFICE OF ADMINISTRATIVE HEARINGS HAS BEEN CONCLUDED.

33 (2) THE INTERROGATION SHALL BE CONDUCTED AT A REASONABLE  
34 HOUR, PREFERABLY AT A TIME WHEN THE CORRECTIONS EMPLOYEE IS ON DUTY,  
35 UNLESS THE SERIOUSNESS OF THE INVESTIGATION IS OF SUCH A DEGREE THAT AN  
36 IMMEDIATE INTERROGATION IS REQUIRED.

37 (3) THE CORRECTIONS EMPLOYEE UNDER INVESTIGATION SHALL BE  
38 INFORMED OF THE NAME, RANK, AND COMMAND, IF ANY, OF THE PERSON IN  
39 CHARGE OF THE INVESTIGATION, THE INTERROGATING OFFICER, AND ALL  
40 PERSONS PRESENT DURING THE INTERROGATION. ALL QUESTIONS DIRECTED TO  
41 THE CORRECTIONS EMPLOYEE UNDER INTERROGATION SHALL BE ASKED BY AND

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1 THROUGH ONE INTERROGATOR DURING ANY ONE INTERROGATING SESSION  
2 CONSISTENT WITH THE PROVISIONS OF PARAGRAPH (6) OF THIS SUBSECTION.

3 (4) A COMPLAINT AGAINST A CORRECTIONS EMPLOYEE ALLEGING  
4 BRUTALITY OR MALFEASANCE IN THE EXECUTION OF THE CORRECTIONS  
5 EMPLOYEE'S DUTIES MAY NOT BE INVESTIGATED UNLESS THE COMPLAINT IS DULY  
6 SWORN TO BY THE PERSON MAKING THE COMPLAINT. AN INVESTIGATION WHICH  
7 COULD LEAD TO DISCIPLINARY ACTION UNDER THIS SUBTITLE FOR BRUTALITY OR  
8 MALFEASANCE MAY NOT BE INITIATED AND AN ACTION MAY NOT BE TAKEN  
9 UNLESS THE COMPLAINT IS FILED WITHIN 24 HOURS OF THE INCIDENT.

10 (5) (I) THE CORRECTIONS EMPLOYEE UNDER INVESTIGATION SHALL  
11 BE INFORMED IN WRITING OF THE NATURE OF THE INVESTIGATION PRIOR TO ANY  
12 INTERROGATION.

13 (II) UPON COMPLETION OF THE INVESTIGATION, THE  
14 CORRECTIONS EMPLOYEE SHALL BE NOTIFIED OF THE NAME OF ANY WITNESS,  
15 INCLUDING THE INMATE MAKING THE COMPLAINT, AND ALL CHARGES AND  
16 SPECIFICATIONS AGAINST THE OFFICER AT LEAST 10 DAYS BEFORE ANY HEARING.

17 (III) THE CORRECTIONS EMPLOYEE UNDER INVESTIGATION SHALL  
18 BE FURNISHED WITH A COPY OF THE INVESTIGATORY FILE AND ANY  
19 EXCULPATORY INFORMATION, EXCEPT:

- 20 1. THE IDENTITY OF CONFIDENTIAL SOURCES;  
21 2. ANY NONEXCULPATORY INFORMATION; AND  
22 3. RECOMMENDATIONS AS TO CHARGES, DISPOSITION, OR  
23 PUNISHMENT.

24 (IV) THE CORRECTIONS EMPLOYEE UNDER INVESTIGATION SHALL  
25 BE FURNISHED WITH A COPY OF THE INVESTIGATORY FILE AND THE EXCULPATORY  
26 INFORMATION DESCRIBED UNDER SUBPARAGRAPH (III) OF THIS PARAGRAPH AT  
27 LEAST 10 DAYS BEFORE ANY HEARING IF THE CORRECTIONS EMPLOYEE AND THE  
28 CORRECTIONS EMPLOYEE'S REPRESENTATIVE AGREE:

- 29 1. TO EXECUTE A CONFIDENTIALITY AGREEMENT WITH  
30 THE DEPARTMENT NOT TO DISCLOSE ANY OF THE MATERIAL CONTAINED IN THE  
31 RECORD FOR ANY PURPOSE OTHER THAN TO DEFEND THE CORRECTIONS  
32 EMPLOYEE; AND  
33 2. TO PAY ANY REASONABLE CHARGE FOR THE COST OF  
34 REPRODUCING THE MATERIAL INVOLVED.

35 (6) INTERROGATING SESSIONS SHALL BE FOR REASONABLE PERIODS  
36 AND SHALL BE TIMED TO ALLOW FOR ANY PERSONAL NECESSITIES AND REST  
37 PERIODS AS ARE REASONABLY NECESSARY.

38 (7) THE CORRECTIONS EMPLOYEE UNDER INTERROGATION MAY NOT  
39 BE THREATENED WITH TRANSFER, DISMISSAL, OR DISCIPLINARY ACTION.

1                   (8) (I) THIS SUBTITLE DOES NOT PREVENT THE DEPARTMENT FROM  
2 REQUIRING A CORRECTIONS EMPLOYEE UNDER INVESTIGATION TO SUBMIT TO  
3 BLOOD ALCOHOL TESTS; BLOOD, BREATH, OR URINE TESTS FOR CONTROLLED  
4 DANGEROUS SUBSTANCES; POLYGRAPH EXAMINATIONS; OR INTERROGATIONS  
5 WHICH SPECIFICALLY RELATE TO THE SUBJECT MATTER OF THE INVESTIGATION.

6                   (II) THIS SUBTITLE DOES NOT PREVENT THE DEPARTMENT FROM  
7 COMMENCING ANY ACTION WHICH MAY LEAD TO A PUNITIVE MEASURE AS A  
8 RESULT OF A CORRECTIONS EMPLOYEE'S REFUSAL TO SUBMIT TO A BLOOD  
9 ALCOHOL TEST; BLOOD, BREATH, OR URINE TESTS FOR CONTROLLED DANGEROUS  
10 SUBSTANCES; POLYGRAPH EXAMINATION; OR INTERROGATION AFTER HAVING  
11 BEEN ORDERED TO DO SO BY THE DEPARTMENT.

12                   (III) THE RESULTS OF ANY TESTS AUTHORIZED UNDER  
13 SUBPARAGRAPH (I) OF THIS PARAGRAPH ARE NOT ADMISSIBLE OR DISCOVERABLE  
14 IN ANY CRIMINAL PROCEEDINGS AGAINST THE CORRECTIONS EMPLOYEE WHEN  
15 THE CORRECTIONS EMPLOYEE HAS BEEN ORDERED TO SUBMIT TO THE TESTS BY  
16 THE DEPARTMENT.

17                   (IV) THE RESULTS OF A POLYGRAPH EXAMINATION MAY NOT BE  
18 USED AS EVIDENCE IN ANY ADMINISTRATIVE HEARING WHEN THE CORRECTIONS  
19 EMPLOYEE HAS BEEN ORDERED TO SUBMIT TO THE POLYGRAPH EXAMINATION BY  
20 THE DEPARTMENT UNLESS THE DEPARTMENT AND THE CORRECTIONS EMPLOYEE  
21 AGREE TO THE ADMISSION OF THE RESULTS AT THE ADMINISTRATIVE HEARING.

22                   (9) A COMPLETE RECORD, EITHER WRITTEN, TAPED, OR TRANSCRIBED,  
23 SHALL BE KEPT OF THE COMPLETE INTERROGATION OF A CORRECTIONS  
24 EMPLOYEE, INCLUDING ALL RECESS PERIODS. UPON COMPLETION OF THE  
25 INVESTIGATION, AND UPON REQUEST OF THE CORRECTIONS EMPLOYEE UNDER  
26 INVESTIGATION OR THE CORRECTIONS EMPLOYEE'S COUNSEL, A COPY OF THE  
27 RECORD OF THE INTERROGATION SHALL BE MADE AVAILABLE AT LEAST 10 DAYS  
28 BEFORE ANY HEARING.

29                   (10) IF THE CORRECTIONS EMPLOYEE UNDER INTERROGATION IS  
30 UNDER ARREST, OR IS LIKELY TO BE PLACED UNDER ARREST AS A RESULT OF THE  
31 INTERROGATION, THE CORRECTIONS EMPLOYEE SHALL BE COMPLETELY  
32 INFORMED OF ALL THE CORRECTIONS EMPLOYEE'S RIGHTS BEFORE THE  
33 INTERROGATION BEGINS.

34                   (11) AT THE REQUEST OF ANY CORRECTIONS EMPLOYEE UNDER  
35 INTERROGATION, THE CORRECTIONS EMPLOYEE SHALL HAVE THE RIGHT TO BE  
36 REPRESENTED BY COUNSEL OR ANY OTHER RESPONSIBLE REPRESENTATIVE OF  
37 THE CORRECTIONS EMPLOYEE'S CHOICE WHO SHALL BE PRESENT AND AVAILABLE  
38 FOR CONSULTATION AT ALL TIMES DURING THE INTERROGATION, UNLESS THE  
39 RIGHT TO REPRESENTATION IS WAIVED BY THE CORRECTIONS EMPLOYEE. THE  
40 INTERROGATION SHALL BE SUSPENDED FOR A PERIOD OF TIME NOT TO EXCEED 10  
41 DAYS UNTIL REPRESENTATION IS OBTAINED. HOWEVER, THE WARDEN OR  
42 APPOINTING AUTHORITY MAY, FOR GOOD CAUSE SHOWN, WITHIN THAT 10-DAY  
43 PERIOD, EXTEND THAT PERIOD OF TIME.

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1 (12) A STATUTE MAY NOT ABRIDGE AND THE DEPARTMENT MAY NOT  
2 ADOPT ANY REGULATION THAT PROHIBITS THE RIGHT OF A CORRECTIONS  
3 EMPLOYEE TO BRING SUIT ARISING OUT OF THE EMPLOYEE'S DUTIES AS A  
4 CORRECTIONS EMPLOYEE.

5 (13) (I) THE DEPARTMENT MAY NOT INSERT ANY ADVERSE MATERIAL  
6 INTO ANY FILE OF THE CORRECTIONS EMPLOYEE, EXCEPT THE FILE OF THE  
7 INTERNAL INVESTIGATION OR THE INTELLIGENCE DIVISION, UNLESS THE  
8 CORRECTIONS EMPLOYEE HAS AN OPPORTUNITY TO REVIEW, SIGN, RECEIVE A  
9 COPY OF, AND COMMENT IN WRITING UPON THE ADVERSE MATERIAL, UNLESS THE  
10 CORRECTIONS EMPLOYEE WAIVES THESE RIGHTS.

11 (II) A CORRECTIONS EMPLOYEE, UPON WRITTEN REQUEST, MAY  
12 HAVE ANY RECORD OF A FORMAL COMPLAINT MADE AGAINST THE CORRECTIONS  
13 EMPLOYEE EXPUNGED FROM ANY FILE IF:

14 1. THE DEPARTMENT INVESTIGATING THE COMPLAINT HAS  
15 EXONERATED THE EMPLOYEE OF ALL CHARGES IN THE COMPLAINT OR  
16 DETERMINED THAT THE CHARGES WERE UNSUSTAINED OR UNFOUNDED, OR AN  
17 ADMINISTRATIVE LAW JUDGE DISMISSES THE COMPLAINT OR MAKES A FINDING OF  
18 NOT GUILTY; AND

19 2. 3 YEARS HAVE PASSED SINCE THE FINDINGS BY THE  
20 DEPARTMENT OR ADMINISTRATIVE HEARING BOARD.

21 (14) THE CORRECTIONS EMPLOYEE'S REPRESENTATIVE NEED NOT BE  
22 PRESENT DURING THE ACTUAL ADMINISTRATION OF A POLYGRAPH EXAMINATION  
23 BY A CERTIFIED POLYGRAPH EXAMINER, IF THE QUESTIONS TO BE ASKED ARE  
24 REVIEWED WITH THE CORRECTIONS EMPLOYEE OR THE REPRESENTATIVE PRIOR  
25 TO THE ADMINISTRATION OF THE EXAMINATION, THE REPRESENTATIVE IS  
26 ALLOWED TO OBSERVE THE ADMINISTRATION OF THE POLYGRAPH EXAMINATION,  
27 AND IF A COPY OF THE FINAL REPORT OF THE EXAMINATION BY THE CERTIFIED  
28 POLYGRAPH OPERATOR IS MADE AVAILABLE TO THE CORRECTIONS EMPLOYEE OR  
29 THE REPRESENTATIVE WITHIN A REASONABLE TIME, NOT TO EXCEED 10 DAYS,  
30 AFTER THE COMPLETION OF THE EXAMINATION.

31 (B) THIS SUBTITLE DOES NOT LIMIT THE AUTHORITY OF THE SECRETARY TO  
32 REGULATE THE COMPETENT AND EFFICIENT OPERATION AND MANAGEMENT OF  
33 THE DEPARTMENT BY ANY REASONABLE MEANS INCLUDING BUT NOT LIMITED TO,  
34 TRANSFER AND REASSIGNMENT WHERE THAT ACTION IS NOT PUNITIVE IN NATURE  
35 AND WHERE THE SECRETARY DETERMINES THAT ACTION TO BE IN THE BEST  
36 INTERESTS OF THE INTERNAL MANAGEMENT OF THE DEPARTMENT.

37 734K.

38 (A) (1) IF THE INVESTIGATION OR INTERROGATION OF A CORRECTIONS  
39 EMPLOYEE RESULTS IN THE RECOMMENDATION OF SOME ACTION, SUCH AS  
40 DEMOTION, DISMISSAL, TRANSFER, LOSS OF PAY, REASSIGNMENT, OR SIMILAR  
41 ACTION WHICH WOULD BE CONSIDERED A PUNITIVE MEASURE:

42 (I) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION  
43 AND EXCEPT IN THE CASE OF SUMMARY PUNISHMENT OR EMERGENCY UNDER §

7

1 734P OF THIS SUBTITLE, BEFORE TAKING THE RECOMMENDED ACTION, THE  
2 DEPARTMENT SHALL GIVE NOTICE TO THE CORRECTIONS EMPLOYEE THAT THE  
3 CORRECTIONS EMPLOYEE IS ENTITLED TO A HEARING ON THE ISSUES BY AN  
4 ADMINISTRATIVE LAW JUDGE; AND

5 (II) THE DEPARTMENT SHALL NOTIFY THE CORRECTIONS  
6 EMPLOYEE OF THE TIME AND PLACE OF THE HEARING AND THE ISSUES INVOLVED.

7 (2) AN OFFICIAL RECORD, INCLUDING TESTIMONY AND EXHIBITS,  
8 SHALL BE KEPT OF THE HEARING.

9 (B) ADMINISTRATIVE CHARGES MAY NOT BE BROUGHT AGAINST A  
10 CORRECTIONS EMPLOYEE UNLESS FILED WITHIN 48 HOURS AFTER THE ACT THAT  
11 GIVES RISE TO THE CHARGES COMES TO THE ATTENTION OF THE APPROPRIATE  
12 DEPARTMENT OFFICIAL.

13 (C) A CORRECTIONS EMPLOYEE IS NOT ENTITLED TO A HEARING UNDER  
14 THIS SECTION IF THE CORRECTIONS EMPLOYEE HAS BEEN CHARGED AND  
15 CONVICTED OF A FELONY.

16 (D) (1) THE HEARING SHALL BE CONDUCTED BY AN ADMINISTRATIVE LAW  
17 JUDGE.

18 (2) BOTH THE DEPARTMENT AND THE CORRECTIONS EMPLOYEE SHALL  
19 BE GIVEN AMPLE OPPORTUNITY TO PRESENT EVIDENCE AND ARGUMENT WITH  
20 RESPECT TO THE ISSUES INVOLVED, AND MAY BE REPRESENTED BY COUNSEL.

21 (E) EVIDENCE THAT POSSESSES PROBATIVE VALUE WITH RESPECT TO THE  
22 ISSUES OF THE HEARING IS ADMISSIBLE AND SHALL BE GIVEN PROBATIVE EFFECT.  
23 THE ADMINISTRATIVE LAW JUDGE CONDUCTING THE HEARING SHALL GIVE EFFECT  
24 TO THE RULES OF PRIVILEGE RECOGNIZED BY LAW, AND SHALL EXCLUDE  
25 INCOMPETENT, IRRELEVANT, IMMATERIAL, AND UNDULY REPETITIOUS EVIDENCE.  
26 ALL RECORDS AND DOCUMENTS WHICH ANY PARTY DESIRES TO USE SHALL BE  
27 OFFERED AND MADE A PART OF THE RECORD. DOCUMENTARY EVIDENCE MAY BE  
28 RECEIVED IN THE FORM OF COPIES OR EXCERPTS, OR BY INCORPORATION BY  
29 REFERENCE.

30 (F) EVERY PARTY HAS THE RIGHT OF CROSS-EXAMINATION OF THE  
31 WITNESSES WHO TESTIFY, AND MAY SUBMIT REBUTTAL EVIDENCE.

32 (G) THE ADMINISTRATIVE LAW JUDGE CONDUCTING THE HEARING MAY  
33 TAKE NOTICE OF JUDICIALLY COGNIZABLE FACTS AND, IN ADDITION, MAY TAKE  
34 NOTICE OF GENERAL, TECHNICAL, OR SCIENTIFIC FACTS WITHIN ITS SPECIALIZED  
35 KNOWLEDGE. PARTIES SHALL BE NOTIFIED EITHER BEFORE OR DURING THE  
36 HEARING, OR BY REFERENCE IN PRELIMINARY REPORTS OR OTHERWISE, OF THE  
37 MATERIAL SO NOTICED, AND THEY SHALL BE AFFORDED AN OPPORTUNITY AND  
38 REASONABLE TIME TO CONTEST THE FACTS SO NOTICED. AN ADMINISTRATIVE LAW  
39 JUDGE MAY UTILIZE ITS EXPERIENCE, TECHNICAL COMPETENCE, AND SPECIALIZED  
40 KNOWLEDGE IN THE EVALUATION OF THE EVIDENCE PRESENTED.

41 (H) WITH RESPECT TO THE SUBJECT OF ANY HEARING CONDUCTED  
42 PURSUANT TO THIS SUBTITLE, THE ADMINISTRATIVE LAW JUDGE SHALL

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1 ADMINISTER OATHS OR AFFIRMATIONS AND EXAMINE ANY INDIVIDUAL UNDER  
2 OATH.

3 (I) WITNESS FEES AND MILEAGE, IF CLAIMED, SHALL BE ALLOWED THE  
4 SAME AS FOR TESTIMONY IN A CIRCUIT COURT. WITNESS FEES, MILEAGE, AND THE  
5 ACTUAL EXPENSES NECESSARILY INCURRED IN SECURING ATTENDANCE OF  
6 WITNESSES AND THEIR TESTIMONY SHALL BE ITEMIZED, AND SHALL BE PAID BY  
7 THE DEPARTMENT.

8 (J) THE ADMINISTRATIVE LAW JUDGE, IN CONNECTION WITH ANY  
9 DISCIPLINARY HEARING, MAY ADMINISTER OATHS AND ISSUE SUMMONSES TO  
10 COMPEL THE ATTENDANCE AND TESTIMONY OF WITNESSES, AND THE PRODUCTION  
11 OF BOOKS, PAPERS, RECORDS, AND DOCUMENTS AS MAY BE RELEVANT OR  
12 NECESSARY. THESE SUMMONSES MAY BE SERVED IN ACCORDANCE WITH THE  
13 MARYLAND RULES OF PROCEDURE PERTAINING TO SERVICE OF PROCESS ISSUED  
14 BY A COURT, WITHOUT COST. ANY PARTY MAY REQUEST THE ADMINISTRATIVE  
15 LAW JUDGE TO ISSUE A SUMMONS OR ORDER UNDER THE PROVISIONS OF THIS  
16 SUBTITLE.

17 734L.

18 (A) ANY DECISION, ORDER, OR ACTION TAKEN AS A RESULT OF THE  
19 HEARING SHALL BE IN WRITING AND SHALL BE ACCOMPANIED BY FINDINGS OF  
20 FACT. THE FINDINGS SHALL CONSIST OF A CONCISE STATEMENT UPON EACH ISSUE  
21 IN THE CASE. A FINDING OF NOT GUILTY TERMINATES THE ACTION. IF A FINDING OF  
22 GUILT IS MADE, THE ADMINISTRATIVE LAW JUDGE SHALL RECONVENE THE  
23 HEARING, RECEIVE EVIDENCE, AND CONSIDER THE CORRECTIONS EMPLOYEE'S  
24 PAST JOB PERFORMANCE WITHIN THE RECKONING PERIOD OF 1 YEAR BEFORE  
25 MAKING THE ADMINISTRATIVE LAW JUDGE'S RECOMMENDATIONS. A COPY OF THE  
26 DECISION OR ORDER AND ACCOMPANYING FINDINGS AND CONCLUSIONS, ALONG  
27 WITH WRITTEN RECOMMENDATIONS FOR ACTION, SHALL BE DELIVERED OR  
28 MAILED PROMPTLY TO THE CORRECTIONS EMPLOYEE OR TO THE CORRECTIONS  
29 EMPLOYEE'S ATTORNEY OR REPRESENTATIVE OF RECORD AND TO THE  
30 SECRETARY. THE PERSON WHO MAY TAKE ANY DISCIPLINARY ACTION FOLLOWING  
31 ANY HEARING IN WHICH THERE IS A FINDING OF GUILT SHALL CONSIDER THE  
32 CORRECTIONS EMPLOYEE'S PAST JOB PERFORMANCE WITHIN A 12-MONTH  
33 RECKONING PERIOD AS A FACTOR BEFORE IMPOSING ANY PENALTY.

34 (B) (1) NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS SUBTITLE,  
35 THE DECISION OF THE ADMINISTRATIVE LAW JUDGE, BOTH AS TO FINDINGS OF  
36 FACT AND PUNISHMENT, IF ANY, IS FINAL.

37 (2) THE DECISION THEN MAY BE APPEALED IN ACCORDANCE WITH §  
38 734M OF THIS SUBTITLE.

39 734M.

40 AN APPEAL FROM A DECISION RENDERED IN ACCORDANCE WITH § 734L OF  
41 THIS SUBTITLE SHALL BE TAKEN TO THE CIRCUIT COURT FOR THE COUNTY UNDER  
42 MARYLAND RULE B2. ANY PARTY AGGRIEVED BY A DECISION OF A COURT UNDER  
43 THIS SUBTITLE MAY APPEAL TO THE COURT OF SPECIAL APPEALS.

9

1 734N.

2 A CORRECTIONS EMPLOYEE MAY NOT BE DISCHARGED, DISCIPLINED,  
3 DEMOTED, OR DENIED PROMOTION, TRANSFER, OR REASSIGNMENT, OR  
4 OTHERWISE DISCRIMINATED AGAINST IN REGARD TO EMPLOYMENT OR BE  
5 THREATENED WITH ANY SUCH TREATMENT, BY REASON OF THE EXERCISE OF OR  
6 DEMAND FOR THE RIGHTS GRANTED IN THIS SUBTITLE, OR BY REASON OF THE  
7 LAWFUL EXERCISE OF THE CORRECTIONS EMPLOYEE'S CONSTITUTIONAL RIGHTS.

8 734-O.

9 ANY CORRECTIONS EMPLOYEE WHO IS DENIED ANY RIGHT AFFORDED BY  
10 THIS SUBTITLE MAY APPLY AT ANY TIME PRIOR TO THE COMMENCEMENT OF THE  
11 HEARING BEFORE THE ADMINISTRATIVE LAW JUDGE, EITHER INDIVIDUALLY OR  
12 THROUGH THE CORRECTIONS EMPLOYEE'S CERTIFIED OR RECOGNIZED EMPLOYEE  
13 ORGANIZATION, TO THE CIRCUIT COURT OF THE COUNTY WHERE THE  
14 CORRECTIONS EMPLOYEE IS REGULARLY EMPLOYED FOR ANY ORDER DIRECTING  
15 THE DEPARTMENT TO SHOW CAUSE WHY THE RIGHT SHOULD NOT BE AFFORDED.

16 734P.

17 (A) THE PROVISIONS OF THIS SUBTITLE ARE NOT INTENDED TO PROHIBIT  
18 SUMMARY PUNISHMENT OR EMERGENCY SUSPENSION BY HIGHER RANKING  
19 OFFICIALS AS MAY BE DESIGNATED BY THE SECRETARY.

20 (B) (1) SUMMARY PUNISHMENT MAY BE IMPOSED FOR MINOR VIOLATIONS  
21 OF DEPARTMENTAL RULES AND REGULATIONS WHEN:

22 (I) THE FACTS WHICH CONSTITUTE THE MINOR VIOLATION ARE  
23 NOT IN DISPUTE;

24 (II) THE EMPLOYEE WAIVES THE HEARING PROVIDED BY THIS  
25 SUBTITLE; AND

26 (III) THE EMPLOYEE ACCEPTS THE PUNISHMENT IMPOSED BY THE  
27 HIGHEST RANKING OFFICIAL OF THE UNIT TO WHICH THE CORRECTIONS  
28 EMPLOYEE IS ATTACHED.

29 (2) (I) EMERGENCY SUSPENSION WITH PAY MAY BE IMPOSED BY THE  
30 SECRETARY WHEN IT APPEARS THAT THE ACTION IS IN THE BEST INTEREST OF THE  
31 PUBLIC AND THE DEPARTMENT.

32 (II) IF THE CORRECTIONS EMPLOYEE IS SUSPENDED WITH PAY,  
33 THE APPOINTING AUTHORITY MAY REASSIGN THE EMPLOYEE TO RESTRICTED  
34 DUTIES PENDING A FINAL DETERMINATION BY AN ADMINISTRATIVE LAW JUDGE.

35 (III) ANY PERSON SO SUSPENDED SHALL BE ENTITLED TO A  
36 PROMPT HEARING.

37 (3) (I) EMERGENCY SUSPENSION OF DUTIES WITHOUT PAY MAY BE  
38 IMPOSED BY THE SECRETARY IF THE CORRECTIONS EMPLOYEE HAS BEEN  
39 CHARGED WITH THE COMMISSION OF A FELONY.

10

1 (II) ANY PERSON SO SUSPENDED SHALL BE ENTITLED TO A  
2 PROMPT HEARING.

3 734Q.

4 THE PROVISIONS OF THIS SUBTITLE SUPERSEDE ANY STATE, COUNTY OR  
5 MUNICIPAL LAW, ORDINANCE, OR REGULATION THAT CONFLICTS WITH THE  
6 PROVISIONS OF THIS SUBTITLE, AND ANY LOCAL LEGISLATION ON THE SUBJECT  
7 AND MATERIAL OF THIS SUBTITLE IS PREEMPTED.

8 734R.

9 ANY PERSON WHO KNOWINGLY MAKES A FALSE STATEMENT, REPORT, OR  
10 COMPLAINT IN THE COURSE OF AN INVESTIGATION OR ANY PROCEEDING  
11 CONDUCTED UNDER THE PROVISIONS OF THIS SUBTITLE IS SUBJECT TO THE SAME  
12 PENALTIES AS PROVIDED IN § 150 OF THIS ARTICLE.

13 734S.

14 A CORRECTIONS EMPLOYEE MAY NOT BE REQUIRED OR REQUESTED TO  
15 DISCLOSE ANY ITEM OF PROPERTY, INCOME, ASSETS, SOURCE OF INCOME, DEBTS,  
16 OR PERSONAL OR DOMESTIC EXPENDITURES, INCLUDING THOSE OF ANY MEMBER  
17 OF THE CORRECTIONS EMPLOYEE'S FAMILY OR HOUSEHOLD, UNLESS THAT  
18 INFORMATION IS NECESSARY IN INVESTIGATING A POSSIBLE CONFLICT OF  
19 INTEREST WITH RESPECT TO THE PERFORMANCE OF OFFICIAL DUTIES, OR UNLESS  
20 SUCH DISCLOSURE IS REQUIRED BY STATE OR FEDERAL LAW.

21 734T.

22 THE DEPARTMENT MAY NOT PROHIBIT SECONDARY EMPLOYMENT BUT MAY  
23 ADOPT REASONABLE REGULATIONS AS TO A CORRECTIONS EMPLOYEE'S  
24 SECONDARY EMPLOYMENT.

25 734U.

26 A CORRECTIONS EMPLOYEE MAY WAIVE, IN WRITING, ANY RIGHT PROVIDED  
27 IN THIS SUBTITLE.

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