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

Introduced and read first time: January 15, 1997

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: February 26, 1997

CHAPTER ____

1 AN ACT concerning

2 **Department of Public Safety and Correctional Services - Division of Correction -**
3 **Corrective Bill**

4 FOR the purpose of repealing certain obsolete references to the Maryland Penitentiary
5 and other State correctional institutions; altering certain references to the
6 correctional and reformatory institutions under the Division of Correction;
7 clarifying that the Commissioner of Correction may designate any correctional
8 institution or facility under the jurisdiction of the Division of Correction as the site
9 for carrying out certain sentences; repealing certain obsolete references to the
10 duties of the warden of the Maryland Penitentiary and providing that the
11 Commissioner of Correction shall perform certain duties; repealing certain obsolete
12 references in the Division of Correction; and generally relating to correcting
13 obsolete references to State correctional institutions and clarifying the duties of the
14 Commissioner of Correction.

15 BY repealing and reenacting, with amendments,
16 Article 27 - Crimes and Punishments
17 Section 61, 75, 76, 77, 410, 689, 690(b), 719, and 720
18 Annotated Code of Maryland
19 (1996 Replacement Volume)

20 ~~BY repealing~~
21 ~~Article 27 - Crimes and Punishments~~
22 ~~Section 689~~
23 ~~Annotated Code of Maryland~~
24 ~~(1996 Replacement Volume)~~

2

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

3 **Article 27 - Crimes and Punishments**

4 61.

5 Every person who wilfully and maliciously interferes with, injures, destroys or
6 tampers with, or who wilfully sets on foot, instigates, engages in or in any way furthers any
7 act by which any horse used for the purposes of racing, breeding or competitive exhibition
8 of skill, breed or stamina, is interfered with, injured, destroyed or tampered with, or any
9 act tending to produce such interference, injury, destruction or tampering, whether such
10 horse be the property of himself or another, shall be deemed guilty of a felony, punishable
11 by imprisonment [in the Maryland Penitentiary] for a term of not less than one year nor
12 more than three years.

13 75.

14 (a) (1) In this section the following terms have the meanings indicated.

15 (2) (i) "State postconviction review process" means the initial
16 adjudication of a postconviction petition filed under § 645A(a)(2)(i) of this article,
17 including any appellate review of the postconviction proceeding.

18 (ii) "State postconviction review process" does not include:

19 1. A postconviction proceeding that has been reopened under §
20 645A(a)(2)(ii) of this article or any appellate review of such proceeding; or

21 2. A postconviction proceeding on a second petition filed
22 before October 1, 1995 or any appellate review of such proceeding.

23 (3) "Warrant of execution" means a warrant for the execution of a person
24 who has been sentenced to death.

25 (b) (1) When a person is sentenced to the punishment of death, the judge or
26 judges presiding in the court shall, at the time of passing sentence, make out, sign and
27 issue a warrant of execution directed to the [warden of the Maryland Penitentiary]
28 COMMISSIONER OF CORRECTION, stating the conviction and sentence and appointing a
29 5-day period beginning on a Monday within which the sentence must be executed, and
30 commanding the [said warden] COMMISSIONER OF CORRECTION to execute the
31 sentence upon some day within the period so appointed.

32 (2) A warrant of execution shall be stayed during the direct review process
33 and the State postconviction review process.

34 (3) (i) If the original warrant of execution has not yet expired at the
35 conclusion of the State postconviction review process, the judge who imposed the death
36 sentence or the judge then presiding in the trial court in which the sentence was imposed
37 shall lift the stay imposed under paragraph (2) of this subsection.

38 (ii) If the original warrant of execution has expired at the conclusion
39 of the State postconviction review process, the judge who imposed the death sentence or

3

1 the judge then presiding in the trial court in which the sentence was imposed shall issue
2 another warrant of execution as provided under paragraph (1) of this subsection.

3 (c) If, after medical examination, it shall appear to the satisfaction of the
4 Governor that a female defendant, sentenced to the punishment of death, is pregnant, the
5 Governor shall revoke the warrant of execution previously issued. As soon as the
6 Governor is satisfied that such female defendant is no longer pregnant, he shall issue
7 forthwith his warrant of execution appointing a 5-day period beginning on a Monday
8 within which the sentence must be executed.

9 (d) The Governor shall have the power, in his discretion, to grant a stay for any
10 cause and, upon so doing, he shall issue an order revoking the warrant of execution
11 theretofore issued. Thereafter, the sentence shall not be executed until the Governor
12 shall issue his warrant of execution appointing a 5-day period beginning on a Monday
13 within which the sentence must be executed.

14 (e) The Governor shall notify the [warden] COMMISSIONER OF CORRECTION
15 forthwith of the revocation of a warrant of execution by him.

16 (f) Each warrant of execution shall designate a 5-day period beginning on a
17 Monday within which the sentence must be executed, and shall command the warden to
18 execute the sentence upon some day within the period so designated. The period so
19 designated must begin not less than four (4) weeks and not more than eight (8) weeks
20 after the issuance of the warrant of execution. The time of the execution within such
21 period shall be left to the discretion of the [warden of the Maryland Penitentiary]
22 COMMISSIONER OF CORRECTION. No previous announcement of the day or hour of the
23 execution shall be made except to the persons who shall be invited or permitted to be
24 present at the execution, as hereinbefore provided.

25 76.

26 Immediately upon sentence of death being pronounced upon any convict by any
27 court of this State, the convict shall be taken into custody by the sheriff of the county or
28 city wherein he was indicted, and held by him under such guard or guards as the sheriff
29 shall determine to be necessary, and as soon thereafter as possible, said convict shall be,
30 by the said sheriff delivered to the [warden of the Maryland Penitentiary] DIVISION OF
31 CORRECTION, to await the execution of his sentence [by the said warden as aforesaid].
32 No expense incident to the detention of the said convict in the [Maryland Penitentiary]
33 DIVISION OF CORRECTION, including the expense of guarding, lodging, feeding, clothing
34 and caring for such convict, shall be assessed against, billed to or paid by the county
35 commissioners of the county where said convict was indicted, or the Mayor and City
36 Council of Baltimore, if indicted in Baltimore City.

37 No expense incident to the guarding, lodging, feeding, clothing and caring for any
38 person sentenced to any State institution shall be assessed against, billed to or paid by the
39 county commissioners of the county where such person was indicted, or the Mayor and
40 City Council of Baltimore, if indicted in Baltimore City, irrespectively of whether or not
41 the judgment, upon which such sentence is imposed, is thereafter reversed.

4

1 77.

2 Should the condemned felon, while in the custody of the [warden of the Maryland
 3 Penitentiary] COMMISSIONER OF CORRECTION or the sheriff of the county or city
 4 where he was indicted, be granted a reprieve by the Governor, or should the execution of
 5 the sentence be stayed by any competent judicial proceeding, notice of such reprieve or
 6 stay of execution shall be served upon the [said warden] COMMISSIONER OF
 7 CORRECTION or sheriff, as well as upon the condemned felon, and the [said warden]
 8 COMMISSIONER OF CORRECTION or sheriff shall yield obedience to the same, and said
 9 felon shall remain in the custody of [said warden] COMMISSIONER OF CORRECTION or
 10 sheriff where he happens to be at the time of that notice. In any subsequent proceeding
 11 the mandate of the court having regard to the condemned felon shall be served upon the
 12 [warden] COMMISSIONER OF CORRECTION or sheriff, then having said felon in
 13 custody, as well as the said felon. Should the said felon be resented by the court, then
 14 the proceedings shall be as hereinbefore provided under the original sentence. Should a
 15 new trial be granted such condemned felon after he has been conveyed to [the
 16 penitentiary] AN INSTITUTION OR FACILITY UNDER THE JURISDICTION OF THE
 17 DIVISION OF CORRECTION, then he shall be conveyed back to the place of trial by such
 18 guard or guards as the [warden] COMMISSIONER OF CORRECTION may direct, their
 19 expenses to be paid as is now provided by law for the conveyance of convicts to [the
 20 house of correction] AN INSTITUTION OR FACILITY UNDER THE JURISDICTION OF
 21 THE DIVISION OF CORRECTION.

22 410.

23 All murder which shall be committed in the perpetration of, or attempt to
 24 perpetrate, any rape in any degree, sexual offense in the first or second degree, sodomy,
 25 mayhem, robbery, carjacking or armed carjacking, burglary in the first, second, or third
 26 degree, kidnapping as defined in §§ 337 and 338 of this article, or in the escape or attempt
 27 to escape from the [Maryland Penitentiary, the house of correction, the Baltimore City
 28 Detention Center] PATUXENT INSTITUTION, ANY INSTITUTION OR FACILITY UNDER
 29 THE JURISDICTION OF THE DIVISION OF CORRECTION OR THE DIVISION OF
 30 PRETRIAL DETENTION AND SERVICES, or from any jail or penal institution in any of the
 31 counties of this State, shall be murder in the first degree.

32 ~~689.~~

33 ~~(a)~~ The correctional and reformatory institutions under the ~~Department~~
 34 DIVISION of Correction are:

35 ~~(b)~~ (1) The Maryland Penitentiary-;

36 ~~(c)~~ (2) The Maryland House of Correction-;

37 ~~(d)~~ (3) THE MARYLAND CORRECTIONAL INSTITUTION - Hagerstown, which
 38 is a place of confinement and training for male offenders from sixteen (16) to twenty-five
 39 (25) years of age, both inclusive. In those cases in which the judge of the Circuit Court for
 40 Baltimore City, who is assigned to exercise jurisdiction in juvenile causes, may waive
 41 jurisdiction and order a minor under the age of sixteen, and the judge of any circuit court
 42 in any county exercising jurisdiction in juvenile causes, may waive jurisdiction and order a
 43 minor under the age of eighteen, to be held for action under the regular procedure that
 44 would follow if such act or acts had been committed by an adult, then and in that event

5

1 the judge presiding in the circuit court of any county upon assuming jurisdiction in such
 2 case and upon conviction may commit the minor to the Maryland Correctional Institution
 3 -- Hagerstown regardless of age. The courts of this State, instead of imposing sentences
 4 of fixed duration upon male offenders included within this subsection may sentence them
 5 to the Maryland Correctional Institution -- Hagerstown for an indeterminate period of
 6 time which may not exceed the maximum term of imprisonment provided by statute for
 7 the offenses of which said person was convicted; and in the event no penalty is prescribed
 8 by statute for said offenses then the court shall prescribe the maximum term of
 9 imprisonment; but nothing in this sentence applies to any case in which the sentence is
 10 life imprisonment or to the service of time for nonpayment of a fine-;

11 ~~(d-1)~~ (4) The Maryland Correctional Training Center -- Hagerstown-;

12 ~~(e)~~ (5)(I) The Maryland Correctional Institution for Women -- Jessup, which is
 13 the place of confinement and training for all female offenders who are sentenced to
 14 imprisonment in any institution other than a jail, for an offense for which the maximum
 15 penalty exceeds three (3) months-;

16 (II) Any female offender who may be sentenced to death shall be
 17 detained in proper segregation and under adequate control in the Maryland Correctional
 18 Institution for Women -- Jessup until not less than twenty-four hours prior to the time
 19 fixed by the Governor for the execution of such offender, at which time the offender shall
 20 be transferred, by authority of the ~~Department~~ DIVISION of Correction, ~~to the death~~
 21 ~~house in the Maryland Penitentiary~~ for such execution, to be performed under the direct
 22 supervision of the ~~warden of the Maryland Penitentiary~~ COMMISSIONER OF
 23 CORRECTION in accordance with the provisions of §§ 71 to 79, both inclusive, of this
 24 article, and in the presence of female officers assigned for this purpose. The courts of this
 25 State, instead of imposing sentence of fixed duration upon female offenders, may
 26 sentence them to the Maryland Correctional Institution for Women -- Jessup for an
 27 indeterminate period of time which may not exceed the maximum term of imprisonment
 28 provided by the statute for the offense of which said person was convicted and in the
 29 event no penalty is provided by statute for said offense then the court shall prescribe the
 30 maximum term of imprisonment; but nothing in this subsection relating to the imposition
 31 of an indeterminate sentence applies to any case in which the sentence imposed is life
 32 imprisonment-;

33 ~~(f)~~ (6) The Maryland Correctional Camp Center located at Jessup. In
 34 connection with this Center, the Department of Correction is authorized to operate
 35 correctional camps as established from time to time elsewhere in the State-;

36 ~~(g)~~ (7) The Pre-Release Unit for Women established under § 678C of this
 37 article-;

38 (8) MARYLAND CORRECTIONAL PRE-RELEASE SYSTEM;

39 (9) MARYLAND RECEPTION, DIAGNOSTIC AND CLASSIFICATION
 40 CENTER;

41 (10) MARYLAND CORRECTIONAL INSTITUTION - JESSUP;

42 (11) ROXBURY CORRECTIONAL INSTITUTION;

6

1 (12) EASTERN CORRECTIONAL INSTITUTION;

2 (13) MARYLAND CORRECTIONAL ADJUSTMENT CENTER;

3 (14) MARYLAND HOUSE OF CORRECTION ANNEX;

4 (15) EASTERN CORRECTIONAL INSTITUTION ANNEX;

5 (16) METROPOLITAN TRANSITIONAL SERVICES CENTER;

6 (17) WESTERN CORRECTIONAL INSTITUTION;

7 ~~(18)~~ (18) Such receiving and classification center or centers as may be established
8 by the Department either at one of the institutions enumerated in this section or
9 elsewhere-; AND

10 ~~(19)~~ (19) Any community correction center as established and maintained under
11 the provisions as set forth in § 706 of this article.}

12 690.

13 (b) Notwithstanding any of the provisions of this article or any other law to the
14 contrary, judges, in the sentencing of convicted persons for any offense for which the
15 provisions of this article or any other law requires the imprisonment to be served at [any
16 one of those institutions enumerated in § 689 of this article] A SPECIFIC STATE
17 CORRECTIONAL INSTITUTION, shall in all such cases sentence such persons to the
18 jurisdiction of the Division of Correction. All such persons shall be committed to the
19 custody of the Commissioner of Correction and delivered to him for imprisonment.
20 Thereafter all such persons shall be held, confined in, assigned to or transferred to such
21 of the institutions and facilities under the jurisdiction of the Division as the Division from
22 time to time may order, including Department of State Police barracks where such use is
23 convenient and practical.

24 Any person sentenced prior to June 1, 1967 to any one of the institutions and
25 facilities under the jurisdiction of the Division may, after such date, and notwithstanding
26 such sentence, be held, confined in, assigned to or transferred to such of these institutions
27 and facilities as the Division may from time to time order.

28 719.

29 All male prisoners confined in [the Maryland Penitentiary, the Maryland House of
30 Correction] AN INSTITUTION OR FACILITY UNDER THE JURISDICTION OF THE
31 DIVISION OF CORRECTION, or any of the county, town or city jails, shall be liable to
32 labor upon the State, county and city roads and streets in accordance with the provisions
33 of §§ 719 to 726; provided that nothing in said sections shall apply to the Baltimore City
34 jail, or to the Mayor and City Council of Baltimore, or to the public highways of the City.

35 720.

36 The Governor of this State may from time to time require the [Board]
37 COMMISSIONER of Correction to certify to him the number of male prisoners confined in
38 the [Maryland Penitentiary and in the Maryland House of Correction] INSTITUTIONS
39 AND FACILITIES UNDER THE JURISDICTION OF THE DIVISION OF CORRECTION, who
40 are physically able to work upon the public roads of the State, or of any county, city or

7

1 town thereof, and who are available for such work. If the governing body of any town or
2 city other than Baltimore City or the county commissioners of any county desire the
3 prisoners confined in the jails under their respective jurisdictions to work upon the public
4 roads or streets, then they may, in like manner, certify to the Governor the number of
5 male prisoners confined in the jails under their respective jurisdictions who are physically
6 able to work upon said public roads of the State, or of any county, city or town thereof,
7 and who are available for such work; provided, however, that in Frederick City, the
8 District Court judge who tried and committed a vagrant or other offender of a municipal
9 law or ordinance is hereby authorized and directed, whenever practicable, to make an
10 assignment of such person to employment on the county roads or on the streets of the
11 City, and the sheriff or other officer into whose custody said person has been committed
12 is hereby ordered to comply with any such order for assignment, and the person ordered
13 to work by the judge is to be guarded, if he works upon the streets of the City, by the
14 superintendent of streets or by any other person deputized by the sheriff, and if he works
15 upon the roads of the county, then he shall be guarded by the road supervisor of the
16 district in which the said person works, and the sheriff is hereby authorized to deputize
17 for this purpose any of the said officials or other persons to take charge of the said
18 persons while so employed.

19 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
20 October 1, 1997.