
By: Senator Collins

Introduced and read first time: January 31, 1997

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Patuxent Institution - Parole - Victims' Rights**

3 FOR the purpose of granting victims of certain violent crimes the right to present oral
4 testimony at a parole release hearing of an inmate confined at the Patuxent
5 Institution; requiring the Patuxent Institution's Board of Review to consider the
6 victim's oral testimony when determining whether an inmate is suitable for release
7 on parole; defining a certain term; and generally relating to the Patuxent Institution
8 and victims' rights.

9 BY repealing and reenacting, with amendments,
10 Article 31B - Patuxent Institution
11 Section 1 and 11
12 Annotated Code of Maryland
13 (1993 Replacement Volume and 1996 Supplement)

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

16 **Article 31B - Patuxent Institution**

17 1.

18 (a) In this article, the following words have the meanings indicated unless the
19 context clearly requires otherwise.

20 (b) "Board of review" means the institutional board of review, created by § 6.

21 (c) "Commissioner" means the Commissioner of Correction.

22 (d) "Department" means the Department of Public Safety and Correctional
23 Services.

24 (e) "Director" means the director of Patuxent Institution.

25 (f) (1) "Eligible person" means a person who (i) has been convicted of a crime
26 and is serving a sentence of imprisonment with at least three years remaining on it, (ii)
27 has an intellectual impairment or emotional unbalance, (iii) is likely to respond favorably
28 to the programs and services provided at Patuxent Institution, (iv) can better respond to

2

1 remediation through those programs and services than by other incarceration, and (v)
2 meets the eligibility criteria established by the Secretary under § 8 of this article.

3 (2) "Eligible person" does not include a person who (i) is serving 2 or more
4 sentences of imprisonment for life under the provisions of Article 27, § 412 of the Code,
5 (ii) is serving 1 or more sentences of imprisonment for life when a court or jury has found,
6 beyond a reasonable doubt, that one or more aggravating circumstances existed under the
7 provisions of Article 27, § 413 of the Code, or (iii) has been convicted of murder in the
8 first degree, rape in the first degree, or a sexual offense in the first degree, unless the
9 sentencing judge, at the time of sentencing or in the exercise of the judge's revisory power
10 under the Maryland Rules, recommends that the person be referred to the Institution for
11 evaluation.

12 (g) "Evaluation team" means a team of at least three professional employees of
13 the Institution, one of whom shall be a social worker, one a psychologist, and one a
14 psychiatrist.

15 (h) "Institution" means the Patuxent Institution.

16 (i) "Remediation" means treatment for specific areas of mental and social
17 deficiencies which are highly related to criminal behavior.

18 (j) "Secretary" means the Secretary of Public Safety and Correctional Services.

19 (k) "Victim" means:

20 (1) A person who suffers personal physical injury or death as a direct result
21 of a crime; or

22 (2) If the victim is deceased, a designated family member of the victim.

23 (L) "VIOLENT CRIME" MEANS BURGLARY IN THE FIRST, SECOND, OR THIRD
24 DEGREE AND ANY CRIME THAT IS LISTED AS A "CRIME OF VIOLENCE" UNDER
25 ARTICLE 27, § 643B OF THE CODE.

26 11.

27 (a) A person confined at the Institution shall be released upon expiration of
28 sentence in the same manner and subject to the same conditions as if the person were
29 being released from a correctional facility. The director shall notify the Commissioner 30
30 days prior to the release.

31 (b) After transfer of a person to the Institution for treatment as an eligible person
32 but prior to the expiration of the person's sentence, the board of review, upon review of
33 the person may take the following action:

34 (1) If the board of review concludes that the person is no longer an eligible
35 person but should remain confined until released on parole in accordance with normal
36 Parole Commission standards or expiration of sentence or the inmate requests a transfer
37 in writing, the director shall notify the Commissioner and send him a copy of the
38 evaluation team's report. Within 90 days after that notice, the person shall be delivered to
39 the appropriate correctional facility designated by the Commissioner. This transfer shall
40 not affect any right to parole consideration that the person may then have.

3

1 (2) If the board of review concludes that (i) it will not impose an
2 unreasonable risk on society; and (ii) it will assist in the remediation of the eligible
3 person, it may grant a parole from the Institution for a period not exceeding one year.

4 (3) Except as provided in paragraph (4) of this subsection, a person who has
5 been sentenced to life imprisonment is not eligible for parole consideration until the
6 person has served 15 years or the equal of 15 years when considering allowances for
7 diminution of the period of confinement provided for in Article 27, §§ 638C and 700 of
8 the Code.

9 (4) A person who has been sentenced to life imprisonment as a result of a
10 proceeding under Article 27, § 413 is not eligible for parole consideration until the person
11 has served 25 years or the equal of 25 years when considering the allowances for
12 diminution of the period of confinement provided for in Article 27, §§ 638C and 700 of
13 the Code.

14 (5) An eligible person who is serving a term of life imprisonment shall only
15 be paroled with the approval of the Governor.

16 (6) The board of review may attach reasonable conditions to the parole, at
17 any time make reasonable and appropriate modifications of these conditions, and revoke
18 the parole if it finds that the person has violated a condition of the parole. The board of
19 review shall review the person's status prior to the expiration of the parole period, and
20 may extend the parole.

21 (c) (1) The board of review shall provide by mail written notice of an eligible
22 person's parole hearing to the victim.

23 (2) The board of review shall give the victim a reasonable opportunity to
24 comment on the parole in writing before the board decides whether to grant parole to an
25 eligible person.

26 (3) (I) IN ADDITION TO THE RIGHT TO PROVIDE WRITTEN COMMENTS
27 UNDER PARAGRAPH (2) OF THIS SUBSECTION, AT THE PAROLE RELEASE HEARING
28 FOR AN INMATE CONVICTED OF A VIOLENT CRIME, THE VICTIM OR THE VICTIM'S
29 DESIGNATED REPRESENTATIVE MAY PRESENT ORAL TESTIMONY IN A MANNER
30 ESTABLISHED IN REGULATIONS PROMULGATED BY THE BOARD OF REVIEW.

31 (II) IN DETERMINING WHETHER AN INMATE IS SUITABLE FOR
32 RELEASE ON PAROLE, THE BOARD OF REVIEW SHALL CONSIDER ANY ORAL
33 TESTIMONY PRESENTED TO THE BOARD BY THE VICTIM OR THE VICTIM'S
34 DESIGNATED REPRESENTATIVE UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH.

35 [(3)] (4) The board of review shall promptly notify the victim of the decision
36 of the board of review regarding parole.

37 [(4)] (5) The victim may designate, in writing to the board of review, the
38 name and address of a representative, who is a resident of the State, to receive notice for
39 the victim.

4

1 [(5)] (6) The board of review shall delete the victim's address and phone
2 number before examination of any document by the eligible person or the eligible
3 person's representative.

4 (d) The board of review may not release an eligible person on parole until the
5 parole decision has been approved by the Secretary.

6 (e) If a person has successfully completed three years on parole without violation,
7 and the board of review concludes that he is safe to be permanently released, it may,
8 through the director, petition the court that last sentenced the person to (1) suspend the
9 person's remaining sentence and terminate parole supervision upon the conditions the
10 court deems appropriate or (2) vacate the person's remaining sentence. Notice of this
11 petition shall be served upon the victim and the State's Attorney that last prosecuted the
12 person, and the State's Attorney shall be a party to the proceeding. After a hearing, the
13 court may either grant or deny the relief requested in the petition.

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