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

Introduced and read first time: January 22, 1998

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Inmate Grievance Office - Procedures**

3 FOR the purpose of clarifying a provision relating to the filing date for an inmate
4 grievance or complaint; modifying certain criteria for dismissing a grievance or
5 complaint; and generally relating to procedures for processing inmate
6 grievances or complaints.

7 BY repealing and reenacting, with amendments,
8 Article 41 - Governor - Executive and Administrative Departments
9 Section 4-102.1
10 Annotated Code of Maryland
11 (1997 Replacement Volume and 1997 Supplement)

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

14 **Article 41 - Governor - Executive and Administrative Departments**

15 4-102.1.

16 (a) The Inmate Grievance Office is established as a separate agency within
17 the Department of Public Safety and Correctional Services.

18 (b) (1) The Secretary of Public Safety and Correctional Services, with the
19 approval of the Governor, shall appoint an executive director of the Office who shall
20 serve at the pleasure of the Secretary and who shall receive [such] THE salary [as]
21 provided in the budget.

22 (2) [In addition, the] THE Secretary may provide the Office with [such]
23 THE administrative, secretarial and clerical employees [as may be] necessary for the
24 efficient administration of the powers and duties of the Office and as provided in the
25 budget.

26 (c) (1) [Any person] AN INMATE confined to [an institution within] A
27 CORRECTIONAL FACILITY UNDER THE JURISDICTION OF the Division of Correction,

1 or otherwise in the custody of the Commissioner of Correction, or confined to the
2 Patuxent Institution, who has [any] A grievance or complaint against [any] officials
3 or employees of the Division of Correction or the Patuxent Institution, may [submit
4 such] FILE THE grievance or complaint [to] WITH the Inmate Grievance Office
5 within [such] THE time and in [such] THE manner [as] prescribed by regulations
6 promulgated by the Office.

7 (2) If, and to the extent that, the Division of Correction or the Patuxent
8 Institution has a grievance or complaint procedure applicable to an inmate's
9 particular grievance or complaint, and if the Office deems [such] THE procedure
10 reasonable and fair, the Office may by regulations require [that such procedure be
11 exhausted] AN INMATE TO EXHAUST THE PROCEDURE prior to [the submission of]
12 FILING the grievance or complaint [to] WITH the Office.

13 (3) THE DATE THE OFFICE RECEIVES A GRIEVANCE OR COMPLAINT
14 SHALL BE CONSIDERED THE FILING DATE.

15 (d) (1) When a grievance or complaint is [submitted to] FILED WITH the
16 Inmate Grievance Office, the executive director or the director's designee shall
17 preliminarily review the grievance or complaint.

18 (2) [If upon such preliminary review the grievance or complaint is
19 determined to be on its face wholly lacking in merit, it may be dismissed, by the]
20 AFTER PRELIMINARY REVIEW, THE executive director or the director's designee MAY
21 DISMISS AN INMATE'S GRIEVANCE OR COMPLAINT without a hearing or without
22 specific findings of fact, IF THE GRIEVANCE OR COMPLAINT IS DETERMINED ON ITS
23 FACE TO BE:

24 (I) WHOLLY LACKING IN MERIT;

25 (II) OUTSIDE THE JURISDICTION OF THE OFFICE; OR

26 (III) NO LONGER AT ISSUE.

27 (3) [Such] THE order of dismissal shall be forwarded to the complainant
28 within 60 days after [submission of] the grievance or complaint WAS FILED and shall
29 constitute the final decision of the Secretary of Public Safety and Correctional
30 Services for purposes of any judicial review.

31 (e) (1) Whenever[, after] the preliminary review provided for in subsection
32 (d) OF THIS SECTION DOES NOT RESULT IN THE DISMISSAL OF a grievance or
33 complaint [is not found to be on its face wholly lacking in merit], the Office of
34 Administrative Hearings shall as promptly as practicable hold a hearing on the
35 grievance or complaint.

36 (2) A record of the testimony presented at the hearing shall be kept
37 according to the [rules and] regulations promulgated by the Office of Administrative
38 Hearings.

1 (F) (1) The decision BY THE OFFICE OF ADMINISTRATIVE HEARINGS shall be
2 issued promptly after the hearing in the form of an order which shall include a
3 statement of the findings of fact, the conclusions of the Office of Administrative
4 Hearings, and its disposition of the GRIEVANCE OR complaint.

5 (2) The [types of] disposition shall be [as follows] ONE OF THE
6 FOLLOWING:

7 [(1)] (I) If after the hearing, the Office of Administrative Hearings finds
8 in its order that the GRIEVANCE OR complaint is wholly lacking in merit, OUTSIDE
9 THE JURISDICTION OF THE OFFICE, OR NO LONGER AT ISSUE, and should be
10 dismissed, [such an] THE order of dismissal shall be promptly forwarded to the
11 complainant and shall constitute the final decision of the Secretary of Public Safety
12 and Correctional Services for purposes of any judicial review.

13 [(2)] (II) [However, if] IF after the hearing, the Office of Administrative
14 Hearings FINDS in its order [finds] that the inmate's GRIEVANCE OR complaint was
15 in whole or in part meritorious, [such] THE order shall be promptly forwarded to the
16 Secretary of Public Safety and Correctional Services.

17 1. Within 15 days of [the receipt of such an] RECEIVING THE
18 order, the Secretary by order shall affirm the order of the Office of Administrative
19 Hearings, or shall reverse or modify the order where [he] THE SECRETARY disagrees
20 with the findings and conclusions of the Office of Administrative Hearings.

21 2. The Secretary shall order that the appropriate official of
22 the institution in question accept in whole or in part the recommendation of the Office
23 of Administrative Hearings or the Secretary may take whatever action [he] THE
24 SECRETARY deems appropriate in light of the findings of the Office of Administrative
25 Hearings.

26 3. The order of the Secretary shall be promptly forwarded to
27 the complainant, and the Secretary's order shall constitute the final decision for
28 purposes of judicial review.

29 [(f)] (G) (1) The Office of Administrative Hearings, with the approval of the
30 Secretary of Public Safety and Correctional Services, shall at all reasonable times
31 have access to, for the purposes of examination, and the right to copy, any
32 documentary evidence of any person or [institution] CORRECTIONAL FACILITY being
33 investigated or proceeded against and may require by subpoena the attendance and
34 testimony of witnesses and the production of all documentary evidence of any person
35 relating to any matter under investigation.

36 (2) The presiding administrative law judge at a hearing may administer
37 oaths and affirmations.

38 [(g)] (H)(1) The inmate shall have the right to appear before the Office of
39 Administrative Hearings and shall have the opportunity to call a witness or a
40 reasonable number of witnesses depending upon the circumstances and the nature of
41 the GRIEVANCE OR complaint, subject to the discretion of the Office of Administrative

1 Hearings and the Inmate Grievance Office as to the relevancy of the testimony and
2 questions and the number of witnesses sought to be called.

3 (2) The inmate shall have a reasonable opportunity to question any
4 witnesses who testify before the Office of Administrative Hearings.

5 (3) [Such] THE rights PROVIDED BY THIS SUBSECTION [of] TO the
6 inmate shall not be unreasonably withheld or restricted by the Office of
7 Administrative Hearings or the Inmate Grievance Office.

8 (4) If the inmate requests [that he] TO be represented at the hearing by
9 an attorney [of his own choosing he shall be permitted] CHOSEN BY THE INMATE
10 such representation SHALL BE PERMITTED at [his own] THE INMATE'S expense.

11 [(h)] (I) A record shall be kept of all GRIEVANCES AND complaints and their
12 disposition which shall be open to public inspection during regular business hours.

13 [(i)] (J) For the performance of its duties, the Office of Administrative
14 Hearings may conduct hearings at the [institutions under the supervision and
15 control] CORRECTIONAL FACILITIES UNDER THE JURISDICTION of the Division of
16 Correction or at the Patuxent Institution.

17 [(j)] (K) The Inmate Grievance Office, subject to the approval of the Secretary,
18 shall have the power to adopt [rules and] regulations [for the conduct of its
19 proceeding] TO CARRY OUT THE DUTIES AND RESPONSIBILITIES as provided [for] in
20 this section.

21 [(k)] (L) (1) No court shall entertain an inmate's grievance or complaint
22 within the jurisdiction of the Inmate Grievance Office or the Office of Administrative
23 Hearings unless and until the complainant has exhausted the remedies as provided in
24 this section.

25 (2) Upon the final decision of the Secretary of Public Safety and
26 Correctional Services, the complainant shall be entitled to judicial review thereof.

27 (3) Proceedings for review shall be instituted in the circuit court of the
28 county in which is located the institution where the complainant is confined.

29 (4) Review by the court shall be limited to a review of the record of the
30 proceedings before the Inmate Grievance Office and the Office of Administrative
31 Hearings and the Secretary's order, if any, pursuant to such proceedings.

32 (5) The court's review shall be limited to a determination of whether
33 there was a violation of any right of the inmate protected by federal or State laws or
34 constitutional requirements.

35 [(l)] (M) (1) Further judicial review of a final judgment of the circuit court of
36 the county may not be under the Administrative Procedure Act, but shall be by
37 application for leave to appeal to the Court of Special Appeals.

1 (2) An application for leave to appeal may be filed by any party
2 aggrieved by the decision of the circuit court.

3 (3) Procedures shall be as prescribed by rule of the Court of Appeals.

4 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
5 effect October 1, 1998.