
By: **Delegates Jacobs, Comeau, Harkins, and Bonsack**
Introduced and read first time: January 23, 1998
Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Work-Release State Program and Harford County Program - Prohibitions**

3 FOR the purpose of prohibiting a prisoner in the custody of the State who has been
4 found guilty of a certain rape or sexual offense from participating in a certain
5 work-release program; prohibiting a prisoner in the custody of Harford County
6 who has been found guilty of a certain rape or sexual offense from participating
7 in a work-release program; making certain technical corrections; and generally
8 relating to work-release programs in Harford County and the State.

9 BY repealing and reenacting, with amendments,
10 Article 27 - Crimes and Punishments
11 Section 645U and 700A
12 Annotated Code of Maryland
13 (1996 Replacement Volume and 1997 Supplement)

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

16 **Article 27 - Crimes and Punishments**

17 645U.

18 (a) In Harford County whenever a person shall be convicted of a crime and
19 sentenced to imprisonment in any county, town or city jail or detention center within
20 the County, by any court in the County, the judge imposing sentence may, at the time
21 of sentencing or at any time during the prescribed term of detention, in accordance
22 with such terms and conditions as he deems appropriate prescribe that the person
23 may continue his regular employment, obtain new employment, participate in a
24 training or rehabilitation program, or attend educational institutions in the County,
25 while serving the term of his sentence. However, the prescription shall in no event
26 lengthen or shorten the term of the sentence.

27 (b) The Harford County government shall cooperate in and provide fiscal
28 support for a "work release" program pursuant to subsection (a) under which persons
29 sentenced to imprisonment in the jail, County detention center, or other such similar

1 institution under the jurisdiction of the County, by a judge, may be granted the
2 privilege of leaving actual confinement during necessary and reasonable hours for the
3 purpose of working at gainful private employment. This program may also include,
4 under appropriate conditions, release for the purpose of seeking such employment.
5 Whenever the prisoner is not employed, or otherwise participating in his work release
6 program, he shall be confined in the detention center unless the committing court
7 shall direct otherwise.

8 (c) A prisoner who participates in a work release program authorized under
9 this section shall surrender to the Sheriff of Harford County:

10 (1) A reasonable fee determined by the Sheriff to be the cost of providing
11 food, lodging, and clothing for that prisoner, and of the actual and necessary food,
12 travel, and other expenses incidental to the prisoner's participation in the program;
13 and

14 (2) Court ordered restitution payments.

15 (d) In the event of any violation of trust or conditions proscribed by the court,
16 for conduct and employment, a prisoner may be removed from the work release
17 program and any earned diminution may be cancelled. Failure of a prisoner to comply
18 with the terms of his authorization for leave shall be considered as a violation of the
19 provisions of § 139 of this article.

20 (e) AN INDIVIDUAL IS NOT ELIGIBLE FOR THE WORK-RELEASE PROGRAM IF
21 THAT INDIVIDUAL HAS BEEN FOUND GUILTY OF THE CRIME OF:

22 (1) FIRST DEGREE RAPE UNDER § 462 OF THIS ARTICLE;

23 (2) SECOND DEGREE RAPE UNDER § 463 OF THIS ARTICLE;

24 (3) FIRST DEGREE SEXUAL OFFENSE UNDER § 464 OF THIS ARTICLE;

25 (4) SECOND DEGREE SEXUAL OFFENSE UNDER § 464A OF THIS ARTICLE;

26 OR

27 (5) ATTEMPTED RAPE OR SEXUAL OFFENSE UNDER § 464F OF THIS

28 ARTICLE.

29 (F) (1) The Sheriff of Harford County shall:

30 (i) Establish and administer a home detention program; and

31 (ii) Adopt rules and regulations for the home detention program.

32 (2) In Harford County whenever a person shall be convicted of a crime
33 and sentenced to imprisonment by any court in the County, the judge imposing
34 sentence may at the time of sentencing or at any time during the individual's
35 incarceration prescribe that the individual participate in the home detention program
36 established under this section.

- 1 (3) An individual is eligible for the home detention program if:
- 2 (i) The individual is recommended to be sentenced to the home
3 detention program by the sentencing judge; and
- 4 (ii) The individual has no other charges pending in any city, county,
5 or state.
- 6 (4) An individual is not eligible for the home detention program if the
7 individual:
- 8 (i) Is serving a sentence for a crime of violence as defined in § 643B
9 of this subheading; or
- 10 (ii) Has been found guilty of the crime of:
- 11 1. Child abuse under § 35C of this article; or
- 12 2. Escape under § 139 of this article.
- 13 700A.

14 (a) The Department of Correction is authorized to establish a "work-release"
15 program under which prisoners sentenced to the jurisdiction of the Department may
16 be granted the privilege of leaving actual confinement during necessary and
17 reasonable hours for the purpose of working at gainful private or public employment
18 or attending school as part of a work-release program. Such program may also
19 include, under appropriate conditions, releases for the purpose of seeking such
20 employment.

21 (b) A prisoner eligible to participate in the "work-release" program in
22 accordance with the preceding subsection may make application to the warden or
23 superintendent of the institution in which he is confined for permission to participate
24 in such program. The application shall include a statement by the prisoner that he
25 agrees to abide by all terms and conditions of the particular plan adopted for him by
26 the Commissioner of Correction or his designee if such application is approved, shall
27 state the name and address of the proposed employer, if any, or of the proposed school
28 training program, if any, and shall contain such other information as the Department
29 or the Commissioner may require, including the prisoner's agreement to waive his
30 right to contest extradition proceedings. The warden or superintendent may, in his
31 discretion, recommend such application to the Commissioner. The Commissioner or
32 his designee may approve, disapprove, or defer action on said recommendation. In the
33 event of approval the Commissioner or his designee shall adopt a "work-release plan"
34 for such prisoner which shall contain such terms and conditions as may be necessary
35 and proper; and such plan shall be signed by the prisoner prior to his participation in
36 the program. At any time after approval has been granted, it may be revoked for any
37 reason by the Commissioner.

38 (b-1) (1) Any prisoner who has participated for at least two (2) months in the
39 work-release program as authorized by this section may be granted weekend leave;

1 provided, however, that the prisoner shall have the recommendation of his direct
2 supervisor in the work-release program.

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

8 (c) The Department shall designate and adopt facilities in the institutions and
9 camps under its jurisdiction for the housing of prisoners granted "work-release"
10 privileges. In areas where such facilities are not within reasonable proximity of the
11 place of employment of a prisoner so released, the Department may contract with the
12 proper authorities of political subdivisions of this State for the quartering of such
13 prisoner in suitable local confinement facilities. In the "work-release" [plan]
14 PROGRAM of any prisoner, the Commissioner shall include as a specific term or
15 condition the place where such prisoner is to be confined when not released for the
16 purposes of the "work-release" program. If any prisoner released from actual
17 confinement under a "work-release" [plan] PROGRAM shall wilfully fail to return to
18 the place of confinement so designated at the time specified in such plan, he shall be
19 guilty of a felony and, upon conviction, shall be subject to the penalties provided in §
20 139 of this article.

21 (d) A prisoner employed in the community under a "work-release" [plan]
22 PROGRAM shall surrender to the Division of Correction his total earnings, less payroll
23 deductions required by law. The Division shall deduct from these earnings, in the
24 following order of priority, an amount determined to be the cost to the State of
25 providing food, lodging and clothing for the prisoner; fees assessed under Article 41, §
26 4-104 of the Code; the actual and necessary food, travel and other expenses of the
27 prisoner when released from actual confinement under the program; the amount
28 which the prisoner may be legally obligated to pay for the support of his dependents,
29 which amount shall be paid to the dependents through the local social services
30 administration in the county or city in which the dependents reside; and the amount
31 ordered to be paid by the court as restitution. Any balance remaining after these
32 deductions and payments shall be credited to the prisoner's account and shall be paid
33 to him upon release. In those cases in which the prisoner's final earnings under a
34 "work-release" [plan] PROGRAM are required to satisfy the obligatory deductions set
35 forth in this subsection, the balance of such earnings shall be forwarded to the
36 prisoner within 15 days of the date of his release from the Division's jurisdiction.

37 (e) No prisoner employed in the community under the provisions of this
38 section shall be deemed to be an agent, employee or involuntary servant of the
39 Department of Correction while released from confinement pursuant to the terms of
40 any "work-release" [plan] PROGRAM. The provisions of Article 41, § 4-701 of the
41 Code do not apply in the event of any injuries sustained in the gainful private
42 employment of any prisoner released under a "work-release" [plan] PROGRAM.

1 (F) A PRISONER WHO HAS BEEN CONVICTED OF A RAPE OR SEXUAL OFFENSE
2 UNDER § 462, § 463, § 464, § 464A, § 464B, § 464C, OR § 464F OF THIS ARTICLE IS NOT
3 ELIGIBLE FOR A STATE "WORK-RELEASE" PROGRAM.

4 [(f)] (G) Nothing in this section shall be construed to affect eligibility for
5 parole, as provided in Article 41, or diminution of confinement, as provided in § 700 of
6 this article, of any prisoner released under a "work-release" [plan] PROGRAM.

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