

HOUSE BILL 529

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HB 984/96 - JUD

1998 Regular Session
8lr0568

By: **Delegate Kelly**

Introduced and read first time: February 5, 1998

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Inmates - Eligibility for Leave**

3 FOR the purpose of making an inmate who has been sentenced to the Division of
4 Correction or the Patuxent Institution for a term of life imprisonment or life
5 imprisonment without the possibility of parole ineligible for certain types of
6 leave; and generally relating to an inmate's eligibility for certain types of leave.

7 BY repealing and reenacting, with amendments,
8 Article 27 - Crimes and Punishments
9 Section 700A, 700D, and 700D-1
10 Annotated Code of Maryland
11 (1996 Replacement Volume and 1997 Supplement)

12 BY repealing and reenacting, with amendments,
13 Article 31B - Patuxent Institution
14 Section 10
15 Annotated Code of Maryland
16 (1997 Replacement Volume and 1997 Supplement)

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

19 **Article 27 - Crimes and Punishments**

20 700A.

21 (a) (1) [The] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS
22 SUBSECTION, THE Department of Correction is authorized to establish a
23 "work-release" program under which prisoners sentenced to the jurisdiction of the
24 Department may be granted the privilege of leaving actual confinement during
25 necessary and reasonable hours for the purpose of working at gainful private or public
26 employment or attending school as part of a work-release program. Such program
27 may also include, under appropriate conditions, releases for the purpose of seeking
28 such employment.

1 (2) A PERSON WHO HAS BEEN SENTENCED TO A TERM OF LIFE
2 IMPRISONMENT OR LIFE IMPRISONMENT WITHOUT THE POSSIBILITY OF PAROLE
3 MAY NOT BE GRANTED LEAVE UNDER THIS SECTION.

4 (b) A prisoner eligible to participate in the "work-release" program in
5 accordance with the preceding subsection may make application to the warden or
6 superintendent of the institution in which he is confined for permission to participate
7 in such program. The application shall include a statement by the prisoner that he
8 agrees to abide by all terms and conditions of the particular plan adopted for him by
9 the Commissioner of Correction or his designee if such application is approved, shall
10 state the name and address of the proposed employer, if any, or of the proposed school
11 training program, if any, and shall contain such other information as the Department
12 or the Commissioner may require, including the prisoner's agreement to waive his
13 right to contest extradition proceedings. The warden or superintendent may, in his
14 discretion, recommend such application to the Commissioner. The Commissioner or
15 his designee may approve, disapprove, or defer action on said recommendation. In the
16 event of approval the Commissioner or his designee shall adopt a "work-release plan"
17 for such prisoner which shall contain such terms and conditions as may be necessary
18 and proper; and such plan shall be signed by the prisoner prior to his participation in
19 the program. At any time after approval has been granted, it may be revoked for any
20 reason by the Commissioner.

21 (b-1) (1) Any prisoner who has participated for at least two (2) months in the
22 work-release program as authorized by this section may be granted weekend leave;
23 provided, however, that the prisoner shall have the recommendation of his direct
24 supervisor in the work-release program.

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

30 (c) The Department shall designate and adopt facilities in the institutions and
31 camps under its jurisdiction for the housing of prisoners granted "work-release"
32 privileges. In areas where such facilities are not within reasonable proximity of the
33 place of employment of a prisoner so released, the Department may contract with the
34 proper authorities of political subdivisions of this State for the quartering of such
35 prisoner in suitable local confinement facilities. In the "work-release" plan of any
36 prisoner, the Commissioner shall include as a specific term or condition the place
37 where such prisoner is to be confined when not released for the purposes of the
38 "work-release" program. If any prisoner released from actual confinement under a
39 "work-release" plan shall wilfully fail to return to the place of confinement so
40 designated at the time specified in such plan, he shall be guilty of a felony and, upon
41 conviction, shall be subject to the penalties provided in § 139 of this article.

42 (d) A prisoner employed in the community under a "work-release" plan shall
43 surrender to the Division of Correction his total earnings, less payroll deductions
44 required by law. The Division shall deduct from these earnings, in the following order

1 of priority, an amount determined to be the cost to the State of providing food, lodging
2 and clothing for the prisoner; fees assessed under Article 41, § 4-104 of the Code; the
3 actual and necessary food, travel and other expenses of the prisoner when released
4 from actual confinement under the program; the amount which the prisoner may be
5 legally obligated to pay for the support of his dependents, which amount shall be paid
6 to the dependents through the local social services administration in the county or
7 city in which the dependents reside; and the amount ordered to be paid by the court
8 as restitution. Any balance remaining after these deductions and payments shall be
9 credited to the prisoner's account and shall be paid to him upon release. In those cases
10 in which the prisoner's final earnings under a "work-release" plan are required to
11 satisfy the obligatory deductions set forth in this subsection, the balance of such
12 earnings shall be forwarded to the prisoner within 15 days of the date of his release
13 from the Division's jurisdiction.

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

20 (f) Nothing in this section shall be construed to affect eligibility for parole, as
21 provided in Article 41, or diminution of confinement, as provided in § 700 of this
22 article, of any prisoner released under a "work-release" plan.

23 700D.

24 (A) [Upon] EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, UPON
25 the recommendation of treatment staff, with the approval of the warden or
26 superintendent of any State penal or reformatory institution under his jurisdiction,
27 the Commissioner of Correction or the Deputy Commissioner of Correction may
28 authorize special leave to an inmate either within or without this State to leave an
29 institution for participation in special community or other meritorious programs or
30 activities deemed beneficial to the inmate, and not detrimental to the public, by both
31 the warden or superintendent and the Commissioner of Correction and which in their
32 judgment would contribute to the rehabilitation process of the respective inmate. To
33 be considered for this special leave the inmate shall be eligible solely upon the
34 concurrence of the warden or superintendent and the Commissioner of Correction
35 that positive attitudinal and growth patterns are being established. All special leaves
36 must be issued in writing and must be signed by both the warden or superintendent
37 and by the Commissioner of Correction or the Deputy Commissioner of Correction,
38 and this authority may not be delegated. As a condition of granting such leave, the
39 Commissioner may require the inmate's agreement to waive his right to contest
40 extradition proceedings. All such orders must be kept on file in the Department.
41 Special leave may only be for the purpose of:

42 (1) Attending educational programs;

43 (2) Improving job skills;

- 1 (3) Attending trade licensing examinations;
- 2 (4) Being interviewed for employment;
- 3 (5) Participating as a volunteer for a governmental agency in an activity
4 serving the general public;
- 5 (6) Participating in athletic competition; or
- 6 (7) Participating in civic activities beneficial to the inmate and/or the
7 community.

8 (B) A PERSON WHO HAS BEEN SENTENCED TO A TERM OF LIFE
9 IMPRISONMENT OR LIFE IMPRISONMENT WITHOUT THE POSSIBILITY OF PAROLE
10 MAY NOT BE GRANTED LEAVE UNDER THIS SECTION.

11 700D-1.

12 (a) (1) [The] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS
13 SUBSECTION, THE Commissioner of Correction may authorize family leave in
14 accordance with the provisions of this section for an inmate confined in [any of the
15 institutions enumerated in § 689 of this article, as amended from time to time] A
16 SPECIFIC STATE INSTITUTION, but only if the inmate is considered to be in minimum
17 security status.

18 (2) A PERSON WHO HAS BEEN SENTENCED TO A TERM OF LIFE
19 IMPRISONMENT OR LIFE IMPRISONMENT WITHOUT THE POSSIBILITY OF PAROLE
20 MAY NOT BE GRANTED LEAVE UNDER THIS SECTION.

21 (b) Leave may be authorized for an inmate for the purpose of visiting with his
22 family, but only if the inmate has been classified in minimum security status and has
23 the recommendation of the institutional classification team and the warden.

24 (c) Leave may be granted only upon the written approval of the Commissioner
25 or his designee. When he approves a leave, he shall issue an authorization to the
26 inmate for the leave which specifies the conditions of the leave. At the same time, a
27 copy of the leave authorization shall be filed by the Commissioner in his office as a
28 public record. At all times while on leave, the inmate shall have in his possession a
29 copy of the leave authorization.

30 (d) The duration of any family leave shall be a reasonable time.

31 (e) The Commissioner is authorized to adopt reasonable regulations necessary
32 to carry out the power granted herein.

33 (f) Failure to comply with the terms of an authorization for leave shall be
34 considered a violation of the provisions of § 139 of this article, as amended from time
35 to time.

Article 31B - Patuxent Institution

10.

(a) (1) Subject to § 11A of this article and paragraph (2) of this subsection, persons transferred to the Institution for treatment are eligible for the work release and leave of absence programs provided for in §§ 700A through 700D-1 of Article 27 of the Code. The functions of the warden and the Commissioner under those sections shall be performed by the board of review with respect to persons confined in the Institution.

(2) A PERSON WHO HAS BEEN SENTENCED TO A TERM OF LIFE IMPRISONMENT OR LIFE IMPRISONMENT WITHOUT THE POSSIBILITY OF PAROLE MAY NOT BE GRANTED LEAVE UNDER THIS SECTION.

(b) (1) The board of review may not grant an eligible person work release or leave under this section until it provides by mail written notice to the victim that it intends to decide whether to grant work release or leave to the eligible person.

(2) The board of review shall give the victim a reasonable opportunity to comment in writing on work release or leave or to present oral testimony in a manner established in regulations adopted by the board of review before the board of review decides whether to grant work release or leave status to an eligible person.

(3) The board of review shall promptly notify the victim of the decision of the board of review regarding leave or work release.

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

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

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