
By: **Delegate Fulton**
Introduced and read first time: February 5, 1998
Assigned to: Appropriations

A BILL ENTITLED

1 AN ACT concerning

2 **Department of Public Safety and Correctional Services - Inmate Work**
3 **Program - Costs of Confinement**

4 FOR the purpose of authorizing an inmate's account to be charged for certain costs;
5 repealing provisions that authorize the Division of Correction to establish a
6 work-release program; requiring the Commissioner of Correction to establish
7 an inmate work program under which certain inmates are required to work at
8 certain employment or participate in on-the-job training for a certain number
9 of hours each week; authorizing the Commissioner of Correction to reduce the
10 number of hours an inmate is required to work under the inmate work program
11 or to exempt certain inmates from the program under certain circumstances;
12 authorizing the Commissioner of Correction to determine the compensation for
13 certain inmates; providing for certain uses of an inmate's earnings under the
14 work program; requiring certain State units to cooperate with the Division of
15 Correction to implement the inmate work program; repealing provisions that
16 prohibit the Secretary of Public Safety and Correctional Services from assessing
17 a fee for certain inmate health care services; requiring the Secretary of Public
18 Safety and Correctional Services to seek reimbursement from an inmate for
19 certain costs incurred by the Division of Correction while inmates are under the
20 jurisdiction of the Division; requiring that the Secretary of Public Safety and
21 Correctional Services determine the amount to be paid by an inmate based on
22 certain factors; requiring inmates to submit financial statements and to sign
23 and attest to the accuracy of the statements; requiring inmates to disclose
24 certain information; requiring the Secretary of Public Safety and Correctional
25 Services to collect or refund certain payments under certain circumstances;
26 authorizing the Department of Public Safety and Correctional Services to bring
27 a civil action under certain circumstances; and generally relating to the
28 assessment and collection of an inmate's costs of confinement.

29 BY repealing and reenacting, with amendments,
30 Article 27 - Crimes and Punishments
31 Section 678B
32 Annotated Code of Maryland
33 (1996 Replacement Volume and 1997 Supplement)

1 BY repealing
2 Article 27 - Crimes and Punishments
3 Section 700A
4 Annotated Code of Maryland
5 (1996 Replacement Volume and 1997 Supplement)

6 BY adding to
7 Article 27 - Crimes and Punishments
8 Section 700A
9 Annotated Code of Maryland
10 (1996 Replacement Volume and 1997 Supplement)

11 BY repealing and reenacting, with amendments,
12 Article 41 - Governor - Executive and Administrative Departments
13 Section 4-104(i)
14 Annotated Code of Maryland
15 (1997 Replacement Volume and 1997 Supplement)

16 BY adding to
17 Article 41 - Governor - Executive and Administrative Departments
18 Section 4-104.3
19 Annotated Code of Maryland
20 (1997 Replacement Volume and 1997 Supplement)

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

23 **Article 27 - Crimes and Punishments**

24 678B.

25 (a) Each institution of the Division of Correction shall maintain a reserve
26 financial account and a spending financial account for each inmate in the institution.

27 (b) The accounts of an inmate may be charged for:

28 (1) The reasonable value of any State property that is willfully or
29 maliciously destroyed by the inmate or that is destroyed as a result of gross
30 negligence by the inmate; or

31 (2) Any fees OR COSTS assessed under Article 41, [§ 4-104] §§ 4-104 AND
32 4-104.3 of the Code.

33 (c) The Commissioner shall adopt rules and regulations that:

1 (1) Set forth those items that may be credited to or disbursed from an
2 account under this section; and

3 (2) Set forth procedures for carrying out the provisions of this section,
4 including procedures that provide due process of law to any inmate before his
5 accounts may be charged with a disbursement under subsection (b) of this section.

6 [700A.

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

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

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

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

40 (c) The Department shall designate and adopt facilities in the institutions and
41 camps under its jurisdiction for the housing of prisoners granted "work-release"
42 privileges. In areas where such facilities are not within reasonable proximity of the

1 place of employment of a prisoner so released, the Department may contract with the
2 proper authorities of political subdivisions of this State for the quartering of such
3 prisoner in suitable local confinement facilities. In the "work-release" plan of any
4 prisoner, the Commissioner shall include as a specific term or condition the place
5 where such prisoner is to be confined when not released for the purposes of the
6 "work-release" program. If any prisoner released from actual confinement under a
7 "work-release" plan shall wilfully fail to return to the place of confinement so
8 designated at the time specified in such plan, he shall be guilty of a felony and, upon
9 conviction, shall be subject to the penalties provided in § 139 of this article.

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

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

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

35 700A.

36 (A) IN THIS SECTION, "PROGRAM" MEANS THE INMATE WORK PROGRAM
37 ESTABLISHED UNDER THIS SECTION.

38 (B) THE COMMISSIONER SHALL:

39 (1) ESTABLISH A PROGRAM THAT REQUIRES ALL INMATES WHO ARE
40 SENTENCED TO THE JURISDICTION OF THE DIVISION OF CORRECTION, EXCEPT
41 THOSE INMATES SPECIFIED IN SUBSECTION (D) OF THIS SECTION, TO WORK AT

1 PRIVATE OR PUBLIC EMPLOYMENT OR PARTICIPATE IN ON-THE-JOB TRAINING FOR
2 40 HOURS EACH WEEK; AND

3 (2) ADOPT REGULATIONS TO IMPLEMENT THE PROGRAM.

4 (C) ALL HOURS OF SPECIAL LEAVE THAT ARE AUTHORIZED FOR AN INMATE
5 UNDER THE FOLLOWING PROVISIONS OF THIS ARTICLE SHALL BE CREDITED
6 TOWARD THE 40-HOUR REQUIREMENT ESTABLISHED UNDER SUBSECTION (B)(1) OF
7 THIS SECTION:

8 (1) LEAVE RELATING TO EMPLOYMENT, COMMUNITY TREATMENT
9 PROGRAMS, OR EDUCATIONAL PROGRAMS AUTHORIZED UNDER § 700C(B) AND (C) OF
10 THIS ARTICLE; AND

11 (2) ANY LEAVE AUTHORIZED UNDER § 700D OF THIS ARTICLE.

12 (D) THE COMMISSIONER MAY REDUCE THE NUMBER OF HOURS THAT AN
13 INMATE IS REQUIRED TO WORK OR ENGAGE IN ON-THE-JOB TRAINING UNDER THE
14 PROGRAM, OR EXEMPT AN INMATE FROM THE REQUIREMENT OF THE PROGRAM IF
15 THE INMATE IS:

16 (1) PHYSICALLY OR MENTALLY DISABLED; OR

17 (2) TOO DANGEROUS TO SOCIETY TO PARTICIPATE IN THE PROGRAM.

18 (E) (1) THE COMMISSIONER SHALL DETERMINE THE AMOUNT OF
19 COMPENSATION TO BE RECEIVED BY AN INMATE WHO PARTICIPATES IN THE
20 PROGRAM.

21 (2) THE COMPENSATION RECEIVED BY AN INMATE IS NOT SUBJECT TO:

22 (I) MINIMUM OR PREVAILING WAGE LAWS, UNLESS REQUIRED BY
23 FEDERAL LAW; OR

24 (II) UNEMPLOYMENT COMPENSATION TAXES, UNLESS REQUIRED
25 BY FEDERAL LAW.

26 (F) (1) THE WARDEN OR FACILITY ADMINISTRATOR SHALL COLLECT ALL OF
27 AN INMATE'S EARNINGS, LESS PAYROLL DEDUCTIONS REQUIRED BY LAW.

28 (2) THE WARDEN OR FACILITY ADMINISTRATOR SHALL USE THE
29 EARNINGS COLLECTED UNDER PARAGRAPH (1) OF THIS SUBSECTION FOR THE
30 FOLLOWING PURPOSES IN THE FOLLOWING ORDER OF PRIORITY:

31 (I) REIMBURSING THE STATE FOR THE COSTS OF THE INMATE'S
32 REHABILITATION, HOUSING, HEALTH CARE, AND LIVING COSTS, INCLUDING THE
33 COSTS OF NECESSARY FOOD, TRAVEL, AND OTHER EXPENSES ASSOCIATED WITH THE
34 INMATE'S PARTICIPATION IN THE PROGRAM;

35 (II) MAKING RESTITUTION OR PROVIDING COMPENSATION TO A
36 VICTIM OF AN INMATE'S CRIME;

1 (III) MAKING COURT-ORDERED PAYMENTS FOR THE SUPPORT OF
2 AN INMATE'S DEPENDENTS; AND

3 (IV) PAYMENT OF FINES, COURT COSTS, AND APPLICABLE TAXES.

4 (3) THE WARDEN OR FACILITY ADMINISTRATOR SHALL:

5 (I) CREDIT TO THE INMATE'S ACCOUNT ANY BALANCE REMAINING
6 AFTER USING THE EARNINGS AS PROVIDED UNDER PARAGRAPH (2) OF THIS
7 SUBSECTION; AND

8 (II) PAY THE BALANCE REMAINING TO THE INMATE ON RELEASE.

9 (G) OTHER STATE UNITS, INCLUDING THE DEPARTMENT OF LABOR,
10 LICENSING, AND REGULATIONS, THE DEPARTMENT OF HUMAN RESOURCES, AND
11 THE DIVISION OF PAROLE AND PROBATION, SHALL COOPERATE WITH THE DIVISION
12 OF CORRECTION TO IMPLEMENT THE PROGRAM.

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

14 4-104.

15 (i) (1) [Except as provided in paragraph (2) of this subsection, the] THE
16 Secretary of Public Safety and Correctional Services shall assess a reasonable fee not
17 to exceed \$4 for each visit by a prisoner to a medical unit, physician, dentist, or
18 optometrist for health care services provided to prisoners housed in any correctional
19 facility within the Department.

20 [(2) The Secretary may not assess a fee under paragraph (1) of this
21 subsection for health care services that are:

22 (i) Required as a part of the intake process;

23 (ii) Required for an initial physical examination;

24 (iii) Due to a referral by a nurse or physician assistant;

25 (iv) Initiated, as a follow-up visit, by a medical professional from
26 the correctional facility;

27 (v) Required for necessary treatment; or

28 (vi) Initiated by a medical or mental health staff member of the
29 correctional facility.]

30 [(3)] (2) The Secretary of Public Safety and Correctional Services shall
31 adopt regulations to implement and collect the fees authorized under this subsection.

1 4-104.3.

2 (A) (1) THE SECRETARY OF PUBLIC SAFETY AND CORRECTIONAL SERVICES
3 SHALL SEEK REIMBURSEMENT FROM AN INMATE FOR THE COSTS THAT THE
4 DIVISION OF CORRECTION INCURS WHILE AN INMATE IS UNDER THE JURISDICTION
5 OF THE DIVISION, INCLUDING THE COSTS:

6 (I) OF AN INMATE'S FOOD, CLOTHING, HOUSING, AND OTHER
7 LIVING EXPENSES;

8 (II) OF AN INMATE'S HEALTH CARE EXPENSES, INCLUDING THE
9 FEE ASSESSED UNDER § 4-104(I)(1) OF THIS ARTICLE; AND

10 (III) ASSOCIATED WITH THE INMATE'S PARTICIPATION IN THE
11 INMATE WORK PROGRAM ESTABLISHED IN ARTICLE 27, § 700A OF THE CODE.

12 (2) AN INMATE SHALL PAY:

13 (I) AN AMOUNT THAT THE SECRETARY DETERMINES, BASED ON:

14 1. THE ACTUAL PER DIEM COST OF MAINTAINING THE
15 INMATE FOR THE PERIOD THAT THE INMATE IS CONFINED IN THE DIVISION OF
16 CORRECTION; AND

17 2. INFORMATION THAT THE INMATE SUBMITS AS REQUIRED
18 BY SUBSECTION (B) OF THIS SECTION.

19 (B) (1) AN INMATE SHALL SUBMIT A FINANCIAL STATEMENT TO THE
20 SECRETARY.

21 (2) THE FINANCIAL STATEMENT SHALL INCLUDE THE FOLLOWING
22 INFORMATION:

23 (I) THE INMATE'S AGE AND MARITAL STATUS;

24 (II) THE NUMBER AND AGES OF THE INMATE'S CHILDREN AND
25 OTHER DEPENDENTS;

26 (III) THE INMATE'S OCCUPATION, PLACE OF EMPLOYMENT, AND
27 ANNUAL INCOME;

28 (IV) THE TYPE AND VALUE OF REAL PROPERTY THAT THE INMATE
29 OWNS;

30 (V) THE TYPE AND VALUE OF PERSONAL PROPERTY THAT THE
31 INMATE OWNS;

32 (VI) A LIST OF ALL OF THE INMATE'S BANK ACCOUNTS;

33 (VII) THE TYPE AND VALUE OF THE INMATE'S INVESTMENTS; AND

1 (VIII) A LIST OF ANY PENSIONS TO WHICH THE INMATE IS ENTITLED
2 AND ANNUITIES FOR WHICH THE INMATE IS A BENEFICIARY.

3 (3) AN INMATE SHALL SIGN AND, UNDER PENALTY OF PERJURY, ATTEST
4 TO THE ACCURACY OF THE FINANCIAL STATEMENT REQUIRED UNDER THIS
5 SUBSECTION.

6 (4) AN INMATE MAY ATTACH A SUPPLEMENTARY STATEMENT TO THE
7 FINANCIAL STATEMENT THAT EXPLAINS WHY PART OR ALL OF THE INMATE'S ASSETS
8 SHOULD NOT BE USED TO PAY THE COSTS OF CONFINEMENT.

9 (C) IF A CONVICTION IS REVERSED, THE SECRETARY SHALL REFUND ALL
10 FUNDS COLLECTED UNDER THIS SECTION TO THE INMATE.

11 (D) IF AN INMATE FAILS TO PAY THE AMOUNT DETERMINED BY THE
12 SECRETARY UNDER SUBSECTION (A)(2) OF THIS SECTION WITHIN 1 YEAR AFTER THE
13 RELEASE OF THE INMATE FROM THE DIVISION OF CORRECTION, THE DEPARTMENT
14 OF PUBLIC SAFETY AND CORRECTIONAL SERVICES MAY BRING A CIVIL ACTION TO
15 COLLECT AGAINST THE INMATE FOR THE UNPAID AMOUNT.

16 (E) THIS SECTION DOES NOT PRECLUDE A CRIME VICTIM OR ANY OTHER
17 PERSON FROM OBTAINING OR EXECUTING ON A CIVIL JUDGMENT AGAINST AN
18 INMATE.

19 (F) THE SECRETARY SHALL ADOPT REGULATIONS THAT ESTABLISH
20 PROCEDURES GOVERNING THE COLLECTION OF COSTS ASSESSED UNDER THIS
21 SECTION.

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