

HOUSE BILL 1353

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E4

1998 Regular Session
8lr6199
CF 8lr6198

By: **The Speaker (Administration)**
Introduced and read first time: February 25, 1998
Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Crimes - Patuxent Institution Youth Program - Patuxent Institution**

3 FOR the purpose of terminating the existing mental health-based rehabilitation
4 program at the Patuxent Institution and replacing it with a program consistent
5 with contemporary remediation philosophy; repealing certain references;
6 modifying certain definitions; identifying certain information in an annual
7 report; removing reference to certain regulations; adding certain authority;
8 removing certain staff references; altering the Board of Review; altering
9 references to referral for evaluation; altering certain time limitations for
10 transfer; requiring certain approval by the Secretary; providing the Director
11 with certain authority to remove persons from work release or leave status;
12 establishing an effective date; and generally relating to the Patuxent
13 Institution.

14 BY repealing and reenacting, with amendments,
15 Article 27 - Crimes and Punishments
16 Section 36B(d), 36H-6, 281A, 286, 286D, 643B(c), and 690A-1
17 Annotated Code of Maryland
18 (1996 Replacement Volume and 1997 Supplement)

19 BY repealing and reenacting, with amendments,
20 Article 31B - Patuxent Institution
21 Section 1, 4, 4A, 5, 6, 8, 9, 10, 11, 11A, 11B, and 12
22 Annotated Code of Maryland
23 (1997 Replacement Volume and 1997 Supplement)

24 BY repealing and reenacting, without amendments,
25 Article 31B - Patuxent Institution
26 Section 2, 3, 7, 9A, 13, 14, 15, and 16
27 Annotated Code of Maryland
28 (1997 Replacement Volume and 1997 Supplement)

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

3 **Article 27 - Crimes and Punishments**

4 36B.

5 (d) Any person who shall use a handgun or an antique firearm capable of
6 being concealed on the person in the commission of any felony or any crime of violence
7 as defined in § 441 of this article, whether operable or inoperable at the time of the
8 offense, shall be guilty of a separate misdemeanor and on conviction thereof shall, in
9 addition to any other sentence imposed by virtue of commission of said felony or
10 misdemeanor:

11 (1) For a first offense, be sentenced to the Maryland Division of
12 Correction for a term of not less than 5 nor more than 20 years, and:

13 (i) It is mandatory upon the court to impose no less than the
14 minimum sentence of 5 years; and

15 (ii) [Except as otherwise provided in Article 31B, § 11 of the Code,
16 the] THE person is not eligible for parole in less than 5 years; and

17 (2) For a second or subsequent offense, be sentenced to the Maryland
18 Division of Correction for a term of not less than 5 nor more than 20 years, and it is
19 mandatory upon the court to impose no less than a minimum consecutive sentence of
20 5 years which shall be served consecutively and not concurrently to any other
21 sentence imposed by virtue of the commission of said felony or misdemeanor.

22 36H-6.

23 (a) Any person who violates any provision of this subheading is upon
24 conviction guilty of a misdemeanor and subject to imprisonment for not more than 3
25 years or a fine of not more than \$5,000 or both.

26 (b) Any person who uses an assault pistol, or a magazine that has a capacity of
27 more than 20 rounds of ammunition, in the commission of any felony or any crime of
28 violence as defined in § 441 of this article shall be guilty of a separate misdemeanor
29 and on conviction thereof shall, in addition to any other sentence imposed by virtue of
30 commission of the felony or misdemeanor:

31 (1) For a first offense, be sentenced to the Maryland Division of
32 Correction for a term of not less than 5 nor more than 20 years, and:

33 (i) It is mandatory upon the court to impose no less than the
34 minimum sentence of 5 years no part of which shall be suspended; and

35 (ii) [Except as otherwise provided in Article 31B, § 11 of the Code,
36 the] THE person is not eligible for parole in less than 5 years; and

1 (2) For a second or subsequent offense, be sentenced to the Maryland
2 Division of Correction for a term of not less than 10 nor more than 20 years, and it is
3 mandatory upon the court to impose no less than a minimum sentence of 10 years
4 which shall be served consecutively and not concurrently to any other sentence
5 imposed by virtue of the commission of the felony or misdemeanor.

6 281A.

7 (a) (1) In this section the following terms have the meanings indicated.

8 (2) "Drug trafficking crime" means:

9 (i) Any felony involving the possession, distribution, manufacture,
10 or importation of a controlled dangerous substance under §§ 286 and 286A of this
11 article; or

12 (ii) Conspiracy to commit any felony involving possession,
13 distribution, manufacture, or importation of a controlled dangerous substance under
14 § 286 or § 286A of this article.

15 (3) "Firearm silencer or muffler" means any device that is designed for
16 silencing, muffling, or diminishing the report of a firearm including any combination
17 of parts designed, redesigned, or intended for use in assembling or fabricating a
18 firearm silencer or muffler.

19 (b) During and in relation to any drug trafficking crime, a person who
20 possesses a firearm under sufficient circumstances to constitute a nexus to the drug
21 trafficking crime or who uses, wears, carries, or transports a firearm is guilty of a
22 separate felony and on conviction shall, in addition to the sentence provided for the
23 drug trafficking crime, be sentenced as follows:

24 (1) (i) For a first offense, for a term of not less than 5 nor more than 20
25 years.

26 (ii) It is mandatory upon the court to impose no less than the
27 minimum sentence of 5 years, no part of which may be suspended and the person may
28 not be eligible for parole [except in accordance with the provisions of Article 31B, § 11
29 of the Code]; and

30 (2) (i) For a second or subsequent offense, for a term of not less than
31 10 nor more than 20 years.

32 (ii) It is mandatory upon the court to impose no less than a
33 minimum consecutive sentence of 10 years, no part of which may be suspended and
34 the person may not be eligible for parole [except in accordance with the provisions of
35 Article 31B, § 11 of the Code].

36 (iii) The sentence shall be served consecutively and not concurrently
37 to any other sentence imposed by virtue of the commission of the drug trafficking
38 crime.

1 (c) The minimum mandatory sentence provided in subsection (b)(1) and (2) of
2 this section shall be doubled if the firearm is:

3 (1) Any firearm listed in § 36H-1 or § 441 of this article;

4 (2) A machine gun; or

5 (3) Equipped with a firearm silencer or muffler.

6 (d) (1) Any firearm or ammunition seized under this section is contraband
7 and shall be summarily forfeited.

8 (2) If the owner or possessor of property seized under this section is
9 acquitted or the charges against the person are dismissed, the seized property shall
10 be returned to the owner or possessor within 90 days if not otherwise prohibited by
11 law unless forfeiture proceedings have commenced.

12 (3) If the State enters a nolle prosequi against the owner or possessor of
13 property seized under this section and does not charge the person within 90 days
14 after the nolle prosequi is entered, the seized property shall be promptly returned to
15 the owner or possessor if not otherwise prohibited by law.

16 286.

17 (a) Except as authorized by this subheading, it is unlawful for any person:

18 (1) To manufacture, distribute, or dispense, or to possess a controlled
19 dangerous substance in sufficient quantity to reasonably indicate under all
20 circumstances an intent to manufacture, distribute, or dispense, a controlled
21 dangerous substance;

22 (2) To create, distribute, or possess with intent to distribute, a
23 counterfeit controlled dangerous substance;

24 (3) To manufacture, distribute, or possess any punch, die, plate, stone, or
25 any other equipment which is designed to print, imprint, or reproduce the trademark,
26 trade name, or other identifying mark, imprint, or device of another or any likeness of
27 any of the foregoing upon any drug or container or labeling thereof so as to render the
28 drug a counterfeit controlled dangerous substance;

29 (4) To manufacture, distribute, or possess any machine, equipment,
30 instrument, implement, device, or combination thereof which is adopted for the
31 production of controlled dangerous substances under circumstances which reasonably
32 indicate an intention to use such item or combination thereof to produce, sell, or
33 dispense any controlled dangerous substance in violation of the provisions of this
34 subheading;

35 (5) To keep or maintain any common nuisance which means any dwelling
36 house, apartment, building, vehicle, vessel, aircraft, or any place whatever which is
37 resorted to by drug abusers for purposes of illegally administering controlled

1 dangerous substances or which is used for the illegal manufacture, distribution,
2 dispensing, storage or concealment of controlled dangerous substances or controlled
3 paraphernalia, as defined in § 287(d) of this subheading; or

4 (6) To possess, pass, utter, make, or manufacture a false, forged, or
5 altered prescription or prescriptions for a controlled dangerous substance with the
6 intent to distribute the controlled dangerous substance. Information communicated to
7 an authorized prescriber in an effort to obtain a controlled dangerous substance in
8 violation of the provisions of this item shall not be deemed a privileged
9 communication.

10 (b) Any person who violates any of the provisions of subsection (a) of this
11 section with respect to:

12 (1) A substance classified in Schedules I or II which is a narcotic drug is
13 guilty of a felony and is subject to imprisonment for not more than 20 years, or a fine
14 of not more than \$25,000, or both.

15 (2) Phencyclidine, 1-(1-phenylcyclohexyl) piperidine,
16 1-phenylcyclohexylamine, or 1-piperidinocyclohexanecarbonitrile, classified in
17 Schedule II, or n-ethyl-1-phenylcyclohexylamine,
18 1-(1-phenylcyclohexyl)-pyrrolidine, 1-(1-(2-thienyl)-cyclohexyl)-piperidine, or
19 lysergic acid diethylamide, classified in Schedule I, is guilty of a felony and is subject
20 to imprisonment for not more than 20 years, or a fine of not more than \$20,000, or
21 both.

22 (3) Any other controlled dangerous substance classified in Schedule I, II,
23 III, IV, or V shall, upon conviction, be deemed guilty of a felony and sentenced to a
24 term of imprisonment for not more than 5 years or a fine of not more than \$15,000, or
25 both. Any person who has previously been convicted under this paragraph shall be
26 sentenced to imprisonment for not less than 2 years. The prison sentence of a person
27 sentenced under this paragraph as a repeat offender may not be suspended to less
28 than 2 years, and the person may be paroled during that period only in accordance
29 with Article 31B, § 11 of the Code.

30 (c) (1) A person who is convicted under subsection (b)(1) or subsection (b)(2)
31 of this section, or of conspiracy to violate subsection (b)(1) or (b)(2) of this section shall
32 be sentenced to imprisonment for not less than 10 years if the person previously has
33 been convicted:

34 (i) Under subsection (b)(1) or subsection (b)(2) of this section;

35 (ii) Of conspiracy to violate subsection (b)(1) or subsection (b)(2) of
36 this section; or

37 (iii) Of an offense under the laws of another state, the District of
38 Columbia, or the United States that would be a violation of subsection (b)(1) or
39 subsection (b)(2) of this section if committed in this State.

1 (2) The prison sentence of a person sentenced under subsection (b)(1) or
2 subsection (b)(2) of this section, or of conspiracy to violate subsection (b)(1) or
3 subsection (b)(2) of this section or any combination of these offenses, as a second
4 offender may not be suspended to less than 10 years, and the person may be paroled
5 during that period only in accordance with Article 31B, § 11 of the Code.

6 (3) This subsection does not prevent, prohibit, or make ineligible a
7 convicted defendant from participating in the rehabilitation program under Title 8,
8 Subtitle 5 of the Health-General Article, because of the length of sentence, if imposed
9 under subsection (b)(1) of this section.

10 (d) (1) A person who is convicted under subsection (b)(1) or subsection (b)(2)
11 of this section or of conspiracy to violate subsection (b)(1) or subsection (b)(2) of this
12 section shall be sentenced to imprisonment for the term allowed by law, but, in any
13 event, not less than 25 years if the person previously:

14 (i) Has served at least 1 term of confinement of at least 180 days in
15 a correctional institution as a result of a conviction of a previous violation of this
16 section or § 286A of this article; and

17 (ii) Has been convicted twice, where the convictions do not arise
18 from a single incident:

19 1. Under subsection (b)(1) or subsection (b)(2) of this section;

20 2. Of conspiracy to violate subsection (b)(1) or subsection
21 (b)(2) of this section;

22 3. Of an offense under the laws of another state, the District
23 of Columbia, or the United States that would be a violation of subsection (b)(1) or
24 subsection (b)(2) of this section if committed in this State; or

25 4. Of any combination of these offenses.

26 (2) Neither the sentence required under paragraph (1) of this subsection
27 nor any part of it may be suspended, and the person may not be eligible for parole
28 [except in accordance with Article 31B, § 11 of the Code].

29 (3) A separate occasion shall be considered one in which the second or
30 succeeding offense is committed after there has been a charging document filed for
31 the preceding offense.

32 (e) (1) A person who is convicted under subsection (b)(1) or subsection (b)(2)
33 of this section or of conspiracy to violate subsection (b)(1) or subsection (b)(2) of this
34 section shall be sentenced to imprisonment for the term allowed by law, but in any
35 event, not less than 40 years if the person previously has served 3 separate terms of
36 confinement as a result of 3 separate convictions:

37 (i) Under subsection (b)(1) or subsection (b)(2) of this section;

1 (ii) Of conspiracy to violate subsection (b)(1) or subsection (b)(2) of
2 this section;

3 (iii) Of an offense under the laws of another state, the District of
4 Columbia, or the United States that would be a violation of subsection (b)(1) or
5 subsection (b)(2) of this section if committed in this State; or

6 (iv) Of any combination of these offenses.

7 (2) Neither the sentence required under paragraph (1) of this subsection
8 nor any part of it may be suspended, and the person may not be eligible for parole
9 [except in accordance with Article 31B, § 11 of the Code].

10 (f) (1) If a person violates subsection (a)(1) of this section and the violation
11 involves any of the following controlled dangerous substances, in the amounts
12 indicated, the person is subject to the penalties provided in paragraph (3) of this
13 subsection upon conviction:

14 (i) 50 pounds or more of marijuana;

15 (ii) 448 grams or more of cocaine or 448 grams or more of any
16 mixture containing a detectable amount of cocaine;

17 (iii) 50 grams or more of cocaine base, commonly known as "crack";

18 (iv) 28 grams or more of morphine or opium or any derivative, salt,
19 isomer, or salt of an isomer of morphine or opium or any mixture containing 28 grams
20 or more of morphine or opium or any derivative, salt, isomer, or salt of an isomer of
21 morphine or opium;

22 (v) 1,000 dosage units of lysergic acid diethylamide or any mixture
23 containing the equivalent of 1,000 dosage units of lysergic acid diethylamide;

24 (vi) 16 ounces or more of phencyclidine in liquid form or 448 grams
25 or more of any mixture containing phencyclidine; or

26 (vii) 448 grams or more of methamphetamine or any mixture
27 containing 448 grams or more of methamphetamine.

28 (2) For purposes of determining the quantity of a controlled dangerous
29 substance under paragraph (1) of this subsection, the quantity of controlled
30 dangerous substances involved in individual acts of manufacturing, distribution,
31 dispensing, or possessing with intent to distribute may be aggregated if each
32 aggregate act of manufacturing, distribution, dispensing, or possessing with the
33 intent to distribute occurred within a period of 90 days.

34 (3) (i) A person convicted of violating paragraph (1) of this subsection
35 is guilty of a felony and shall be sentenced as otherwise provided for in this section,
36 except that it is mandatory upon the court to impose no less than 5 years'

1 imprisonment, and neither that term of imprisonment nor any part of it may be
2 suspended.

3 (ii) The person may not be eligible for parole [except in accordance
4 with Article 31B, § 11 of the Code].

5 (g) (1) In this subsection, "drug kingpin" means a person who occupies a
6 position of an organizer, supervisor, financier, or manager as a coconspirator in a
7 conspiracy to manufacture, distribute, dispense, bring into, or transport in the State
8 controlled dangerous substances.

9 (2) A drug kingpin who conspires to manufacture, distribute, dispense,
10 bring into, or transport in the State controlled dangerous substances in one or more of
11 the amounts described under subsection (f) of this section is guilty of a felony and on
12 conviction is subject to:

13 (i) Imprisonment for not less than 20 nor more than 40 years
14 without the possibility of parole, and it is mandatory on the court to impose no less
15 than 20 years' imprisonment, no part of which may be suspended; and

16 (ii) A fine of not more than \$1,000,000.

17 (3) The provisions of § 641 of this article are not applicable to a
18 conviction under this subsection.

19 (4) Notwithstanding any other provision of this subheading, a conviction
20 under this subsection does not merge with the conviction for any offense which is the
21 object of the conspiracy.

22 (5) Nothing contained in this subsection prohibits the court from
23 imposing an enhanced penalty under § 293 of this article. This subsection may not be
24 construed to preclude or limit any prosecution for any other criminal offense.

25 (6) It is not a defense to a prosecution under this section that the
26 controlled dangerous substance was brought into or transported in this State solely
27 for ultimate distribution or dispensing in another jurisdiction.

28 286D.

29 (a) A person who manufactures, distributes, dispenses, or possesses with
30 intent to distribute a controlled dangerous substance in violation of § 286(a)(1) of this
31 subheading, or who conspires to commit any of these offenses, is guilty of a felony if
32 the offense occurred:

33 (1) In, on, or within 1,000 feet of any real property owned by or leased to
34 any elementary school, secondary school, or school board, and used for elementary or
35 secondary education, as defined under § 1-101 of the Education Article, regardless of
36 whether:

37 (i) School was in session at the time of the offense; or

1 (ii) The real property was being used for other purposes besides
2 school purposes at the time of the offense; or

3 (2) On a school vehicle, as defined under § 11-154 of the Transportation
4 Article.

5 (b) (1) A person who violates the provisions of this section, on conviction,
6 shall be subject to the following penalties:

7 (i) For a first offense, imprisonment for not more than 20 years or
8 a fine of not more than \$20,000 or both; or

9 (ii) For a second or subsequent offense, imprisonment for not less
10 than 5 or more than 40 years or a fine of not more than \$40,000 or both. It is
11 mandatory for the court to impose a minimum sentence of 5 years, which may not be
12 suspended, and a person is not eligible for parole during that period[, except in
13 accordance with Article 31B, § 11 of the Code].

14 (2) A sentence imposed under this subsection shall be served
15 consecutively to any other sentence imposed.

16 (c) Notwithstanding any other provision of law, a conviction arising under this
17 section may not merge with a conviction for a violation of § 286 or § 286C of this
18 subheading.

19 (d) (1) In a prosecution under this section, a map produced or reproduced by
20 any municipal or county agency or department for the purpose of depicting the
21 location and boundaries of the area on or within 1,000 feet of the property of a public
22 or nonpublic elementary or secondary school that is used for school purposes, or a true
23 copy of the map, shall, if certified as a true copy by the custodian of the record, be
24 admissible and shall constitute prima facie evidence of the location and boundaries of
25 the area, if the governing body of the municipality or county has approved the map as
26 an official record of the location and boundaries of the area.

27 (2) A map approved under this section may be revised from time to time
28 by the governing body of the municipality or county.

29 (3) The original of every map approved or revised under this section, or a
30 true copy, shall be filed with the municipality or county and shall be maintained as an
31 official record of the municipality or county.

32 (4) This section does not preclude the prosecution from introducing or
33 relying upon any other evidence or testimony to establish any element of this offense.

34 (5) This section does not preclude the use or admissibility of map or
35 diagram other than the one which has been approved by the municipality or county.

1 643B.

2 (c) Except as provided in subsections (f) and (g) of this section, any person who
3 (1) has been convicted on two separate occasions of a crime of violence where the
4 convictions do not arise from a single incident, and (2) has served at least one term of
5 confinement in a correctional institution as a result of a conviction of a crime of
6 violence, shall be sentenced, on being convicted a third time of a crime of violence, to
7 imprisonment for the term allowed by law, but, in any event, not less than 25 years.
8 The court may not suspend all or part of the mandatory 25-year sentence required
9 under this subsection, and the person shall not be eligible for parole [except in
10 accordance with the provisions of Article 31B, § 11]. A separate occasion shall be
11 considered one in which the second or succeeding offense is committed after there has
12 been a charging document filed for the preceding occasion.

13 690A-1.

14 (a) In this section, "Program" means the Patuxent Institution Youth Program.

15 (b) The provisions of this section apply to an individual under the age of 21
16 years who is sentenced to a term of imprisonment of 3 years or more for a criminal
17 offense by a circuit court or the District Court.

18 (c) A court may, at sentencing, order that an individual be referred to the
19 Patuxent Institution for evaluation.

20 (d) Whenever an individual is approved for transfer to the Program under this
21 section, the duration of the transfer to the Patuxent Institution shall terminate on the
22 first to occur of the following:

23 (1) The Director of Patuxent Institution orders the individual
24 transferred to the Division of Correction;

25 (2) (I) With the approval of the Secretary of Public Safety and
26 Correctional Services, the individual is ordered paroled by the Patuxent Institution
27 Board of Review IF THE INDIVIDUAL IS INCARCERATED FOR AN OFFENSE
28 COMMITTED PRIOR TO OCTOBER 1, 1998; OR

29 (II) THE INDIVIDUAL IS ORDERED PAROLED BY THE MARYLAND
30 PAROLE COMMISSION IF THE INDIVIDUAL IS INCARCERATED FOR AN OFFENSE
31 COMMITTED ON OR AFTER OCTOBER 1, 1998; or

32 (3) The individual's term of imprisonment is completed as provided by
33 law.

34 (e) An individual who is transferred to the Program in accordance with this
35 section shall be deemed to be committed to, and remain subject to the jurisdiction of,
36 the Patuxent Institution.

37 (f) An individual's transfer to the Program does not affect the individual's
38 eligibility for diminution of confinement credits or other privileges available by law or

1 regulation to an individual sentenced to the custody of the Division of Correction or a
2 local correctional facility, including a local detention center.

3 (g) (1) The Secretary of Public Safety and Correctional Services shall adopt
4 regulations for the management and operation of the Program, including criteria for
5 admission to the Program.

6 (2) The criteria for admission to the Program shall:

7 (i) Be consistent with Article 31B of the Code and any other
8 statutory requirements; and

9 (ii) Include the following:

- 10 1. The age of the individual;
- 11 2. The mental and physical condition of the individual;
- 12 3. The individual's amenability to treatment in the Program;
- 13 4. The nature of the offense and the individual's
14 participation in the offense; and
- 15 5. The public safety.

16 (h) The Director of Patuxent Institution shall:

17 (1) Review recommendations of the court for admission of individuals to
18 the Program; and

19 (2) Admit or deny admission for each individual based on the criteria for
20 admission.

21 **Article 31B - Patuxent Institution**

22 1.

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

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

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

27 (d) "Department" means the Department of Public Safety and Correctional
28 Services.

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

30 (f) [(1)] "Eligible person" means a person who (i) has been convicted of a
31 crime and is serving a sentence of imprisonment with at least three years remaining

1 on it, (ii) [has an intellectual impairment or emotional unbalance, (iii)] is likely to
2 respond favorably to the programs and services provided at Patuxent Institution,
3 [(iv)] (III) can better respond to remediation through those programs and services
4 than by other incarceration, and [(v)] (IV) meets the eligibility criteria established by
5 the Secretary under § 8 of this article.

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

15 (g) "Evaluation team" means a team of at least three professional employees
16 of the Institution[, one of whom shall be a social worker, one a psychologist, and one
17 a psychiatrist].

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

19 (i) "Remediation" means treatment for specific areas of mental and social
20 deficiencies which are highly related to criminal behavior, INCLUDING DRUG
21 DEPENDENCY, EDUCATIONAL DEFICIENCIES, AND LACK OF JOB SKILLS.

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

24 (k) "Victim" means:

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

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

28 2.

29 (a) The Patuxent Institution is created and continued as part of the
30 Department.

31 (b) The purpose of the Institution is to provide remediation programs and
32 services to youthful eligible persons which shall include a range of program
33 alternatives indicated by the current state of knowledge to be appropriate and
34 effective for the population being served. As an integral part of the program an
35 effective research, development, and training effort will be established and
36 maintained to evaluate and recommend improvements on an ongoing basis.

1 (c) The eligible person remediation program may consist of no more than 350
2 eligible persons. The Institution may provide other remediation programs as
3 designated by the Secretary.

4 3.

5 The Governor shall appoint a citizen's advisory board, based on
6 recommendations of the Secretary, to advise the director and the Secretary with
7 respect to the operation and programs of the Institution.

8 4.

9 (a) The director is the chief administrative officer of the Institution.

10 (b) The director shall be a trained and competent administrator. The director
11 shall be appointed by the Secretary, shall serve at the pleasure of the Secretary, and
12 shall receive the salary provided in the State budget.

13 (c) Subject to the authority of the Secretary, the director has the authority
14 necessary to manage and supervise the Institution and to implement its programs
15 and services.

16 (d) (1) The director shall submit an annual report to the Secretary and to
17 the Governor.

18 (2) The annual report shall contain:

19 (i) The information described in Article 27, § 678 of the Code;

20 (ii) The total number of eligible and noneligible persons evaluated
21 at the Institution;

22 (iii) The decisions of the board of review to grant leave to eligible
23 persons;

24 (iv) The total number of rearrests, reconvictions, reincarcerations,
25 and parole violations of persons formerly incarcerated at the Patuxent Institution;

26 (v) The total number of eligible persons incarcerated at the
27 Patuxent Institution who are returned to the Division of Correction for major
28 violations of the Institution's disciplinary rules;

29 (vi) Information on the type of major violation necessitating the
30 person's transfer to the Division of Correction described in subparagraph (v) of this
31 paragraph; and

32 (vii) Information on education programs and [community reentry]
33 WORK RELEASE activities.

34 (3) The Department shall adopt and publish regulations regarding the
35 annual report required under this subsection.

1 4A.

2 (a) The Secretary shall adopt regulations necessary to carry out the provisions
3 of this article.

4 (b) Notwithstanding the provisions of § 10-101 (g)(2)(i) of the State
5 Government Article, the regulations adopted under this section, other than
6 regulations pertaining only to routine internal management of the Institution, shall
7 comply with the Administrative Procedure Act.

8 (c) Regulations adopted under this section by the Secretary in accordance
9 with the Administrative Procedure Act shall include regulations:

10 (1) Governing criteria to determine eligibility for referral of an inmate to
11 the Institution;

12 (2) Governing leave[,] AND work release[, and parole] from the
13 Institution; and

14 (3) Establishing with specificity major violations of the Institution's
15 disciplinary rules.

16 (D) THE DIRECTOR MAY ADOPT INSTITUTIONAL DIRECTIVES NECESSARY TO
17 CARRY OUT THE PROVISIONS OF THIS ARTICLE ON MATTERS RELATING TO THE
18 INTERNAL MANAGEMENT OF THE INSTITUTION.

19 5.

20 (a) The Institution shall have the following staff:

21 (1) Two associate directors[, one of whom is a competent psychiatrist
22 with at least three years' experience in the practice or teaching of psychiatry and one
23 of whom is a competent behavioral scientist with at least three years' experience in
24 the practice or teaching of his specialty. These two associate directors] WHO shall
25 assist primarily in discharging the diagnostic and remediation functions of the
26 Institution;

27 (2) A warden who shall assist primarily in discharging the custodial
28 function of the Institution; AND

29 (3) [At least three additional psychiatrists or clinical psychologists;

30 (4) At least four Maryland licensed certified social workers-clinical; and

31 (5)] The other professional and nonprofessional staff provided in the
32 State budget.

33 (b) The salaries of all employees of the Institution shall be as provided in the
34 State budget.

1 (c) (1) Except as provided in paragraph (2) of this subsection or otherwise by
2 law, all staff of the Institution are in the skilled service or professional service, with
3 the exception of special appointments, in the State Personnel Management System.

4 (2) The director, the associate directors, all social workers, sociologists,
5 physicians, psychologists, and other persons in positions that are determined by the
6 Secretary to be professional shall be appointed by the director, with the approval of
7 the Secretary, and are in the executive service, management service, or are special
8 appointments in the State Personnel Management System.

9 6.

10 (a) There is a board of review for the Institution. It consists of:

11 (1) The director;

12 (2) The two associate directors;

13 (3) A warden; and

14 (4) [Five members] A MEMBER of the general public appointed by the
15 Governor with the advice and consent of the Senate[, one of whom is a member of a
16 victim's rights organization].

17 (b) The [Governor] DIRECTOR shall BE [designate] the chairman of the board
18 of review.

19 (c) (1) [Seven] THREE members of the board of review[, including at least 3
20 who are members of the general public, constitutes] CONSTITUTE a quorum.

21 (2) All actions by the board of review require the approval of a majority
22 of the members except that a decision to grant [parole,] work release[,] or leave to
23 an eligible person requires the approval of [7] 4 members.

24 (d) Employees of the Institution who are members of the board of review or
25 who attend its meetings or work as advisors to the board of review shall serve in that
26 capacity as part of their regular duties without additional compensation. The other
27 [members] MEMBER of the board of review shall receive compensation as provided in
28 the State budget.

29 (e) The [members] MEMBER of the general public of the board of review shall
30 serve for a term of 4 years. The Governor may reappoint a member of the general
31 public to the board of review upon the expiration of that member's term.

32 (f) The board of review shall perform the duties set forth in this article.

33 7.

34 (a) A member of the board of review, the director, or an employee of the
35 Institution may not:

1 (1) Be directly or indirectly concerned or interested in any contract,
2 purchase, or sale made by or for the Institution or an inmate of the Institution;

3 (2) Accept any reward or gift or a promise of a reward or gift from any
4 person interested in a contract, purchase, or sale made by or for the Institution or an
5 inmate of the Institution; or

6 (3) Accept any reward, gift, devise, or bequest, or a promise of a reward,
7 gift, devise, or bequest from an inmate of the Institution or from anyone on the
8 inmate's behalf.

9 (b) A reward, gift, devise, bequest, or promise accepted in violation of this
10 section is void. A contract, purchase, or sale in which a person has an interest
11 prohibited by subsection (a) is voidable by the State whether or not the State is a
12 party to it.

13 (c) A member of the board of review, the director, or an employee of the
14 Institution shall report to the director or the Secretary any violation of subsection (a)
15 that is within the individual's knowledge.

16 (d) A violation of this section constitutes misconduct in office and is grounds
17 for removal from office or employment.

18 8.

19 (a) Any person who is serving a sentence of imprisonment following conviction
20 of a crime, has more than three years remaining to serve on a sentence, has not been
21 evaluated by or confined at the Institution within the preceding three years, is not
22 disqualified from being an eligible person under § 1(f)(2) of this article, and meets the
23 eligibility criteria established by the Secretary under § 4A(c) of this article may be
24 referred by the Commissioner to the Institution for evaluation as to whether the
25 person is an eligible person upon recommendation of the sentencing court, upon
26 application to the Commissioner by the State's Attorney of [the] ANY county in which
27 the person was [last] convicted, upon application by the inmate, or upon
28 recommendation of the Commissioner.

29 (b) Within six months after [referral] RECOMMENDATION OF THE
30 SENTENCING COURT OR WHENEVER APPROPRIATE UNDER INSTITUTIONAL
31 REGULATIONS IN THE CASE OF OTHER REFERRALS, the person shall be examined by
32 an evaluation team. Before proceeding with the examination, the evaluation team
33 shall assemble and review all available and relevant information about the person
34 provided for in § 13 of this article.

35 (c) Based upon this information and its examination of the person, the
36 evaluation team shall determine whether in its opinion, or in the opinion of a majority
37 of the team, the person is an eligible person. The evaluation team shall state its
38 findings in a written report which shall be delivered to the director. The report shall
39 state in detail the reasoning supporting the team's conclusion with respect to each of
40 the criteria for an eligible person set forth in § 1(f) of this article.

1 9.

2 (a) If the evaluation team concludes that the person is not an eligible person,
3 the director shall notify the Commissioner and send to him a copy of the team's
4 report. [Within 30 days after that notice] THEREAFTER, the person shall be delivered
5 to the appropriate correctional facility designated by the Commissioner.

6 (b) If the evaluation team concludes that the person is an eligible person, the
7 director shall notify the Commissioner, and the person shall be admitted to the
8 program providing the admission does not exceed the program capacity specified in §
9 2 of this article.

10 (c) An individualized written remediation plan shall be prepared, filed with
11 the director, and implemented for each eligible person. The remediation plan and the
12 inmate's progress under it shall be reviewed by the director or an associate director
13 for treatment at appropriate intervals but at least every six months.

14 (d) A person's status as an eligible person and his progress under his
15 remediation plan shall be reviewed by the board of review following a new evaluation
16 by an evaluation team at least once a year. The board of review shall make
17 appropriate written recommendations for the future remediation and status of the
18 person following its review. A copy of these recommendations shall be maintained as
19 part of the person's file.

20 (e) A person transferred to the Institution for evaluation or treatment remains
21 in the custody of the Division of Correction and under the sentence imposed on him,
22 but he is subject to the immediate control of the Institution and its staff.

23 9A.

24 (a) On the recommendation of a health care provider, the director of the
25 Institution or the designee of the director may authorize medical treatment of a
26 juvenile inmate when in the judgment of the director or the designee the treatment is
27 necessary and a parent, guardian, or person in loco parentis of the juvenile is not
28 available on a timely basis to give the authorization.

29 (b) Liability may not attach to the director or the designee of the director for
30 authorizing in good faith the medically necessary treatment.

31 10.

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

37 (2) AN ELIGIBLE PERSON UNDER A SENTENCE OF LIFE IMPRISONMENT
38 MAY BE GRANTED WORK RELEASE OR LEAVE OF ABSENCE ONLY WITH THE
39 APPROVAL OF THE SECRETARY.

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

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

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

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

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

16 (C) AN ELIGIBLE PERSON MAY NOT RETAIN WORK RELEASE STATUS FOR A
17 PERIOD GREATER THAN 12 MONTHS UNLESS A CONDITIONAL DELAYED PAROLE
18 RELEASE HAS BEEN GRANTED.

19 (D) A PERSON MAY BE REMOVED FROM WORK RELEASE OR LEAVE OF
20 ABSENCE STATUS AT ANY TIME BY THE DIRECTOR, WITH OR WITHOUT REASON.

21 11.

22 (a) A person confined at the Institution shall be released upon MANDATORY
23 SUPERVISION OR expiration of sentence in the same manner and subject to the same
24 conditions as if the person were being released from a correctional facility. The
25 director shall notify the Commissioner 30 days prior to the release.

26 (b) After transfer of a person to the Institution for treatment as an eligible
27 person but prior to the MANDATORY SUPERVISION RELEASE OR expiration of the
28 person's sentence, the board of review, upon review of the person may take the
29 following action[:].

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

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
5 has been sentenced to life imprisonment is not eligible for parole consideration until
6 the person has served 15 years or the equal of 15 years when considering allowances
7 for diminution of the period of confinement provided for in Article 27, §§ 638C and 700
8 of the Code.

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

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

16 (6) The board of review may attach reasonable conditions to the parole,
17 at any time make reasonable and appropriate modifications of these conditions, and
18 revoke the parole if it finds that the person has violated a condition of the parole. The
19 board of review shall review the person's status prior to the expiration of the parole
20 period, and 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 or present oral testimony in a manner established
25 in regulations adopted by the board of review before the board decides whether to
26 grant parole to an eligible person.

27 (3) The board of review shall promptly notify the victim of the decision of
28 the board of review regarding parole.

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

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

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

37 (e) If a person has successfully completed three years on parole without
38 violation, and the board of review concludes that he is safe to be permanently
39 released, it may, through the director, petition the court that last sentenced the

1 person to (1) suspend the person's remaining sentence and terminate parole
2 supervision upon the conditions the court deems appropriate or (2) vacate the person's
3 remaining sentence. Notice of this petition shall be served upon the victim and the
4 State's Attorney that last prosecuted the person, and the State's Attorney shall be a
5 party to the proceeding. After a hearing, the court may either grant or deny the relief
6 requested in the petition.]

7 (C) (1) THE MARYLAND PAROLE COMMISSION SHALL HAVE THE EXCLUSIVE
8 AUTHORITY TO GRANT A PAROLE RELEASE FROM THE INSTITUTION.

9 (2) THE PAROLE COMMISSION SHALL APPLY THE SAME CRITERIA AND
10 PAROLE ELIGIBILITY REQUIREMENTS APPLICABLE TO DIVISION OF CORRECTION
11 INMATES TO INMATES OF THE INSTITUTION, AND INSTITUTION INMATES SHALL BE
12 SUBJECT TO THE SAME TERMS AND CONDITIONS OF RELEASE.

13 (D) A VICTIM IS ENTITLED TO THE SAME OPPORTUNITIES FOR NOTICE AND
14 PARTICIPATION WITH RESPECT TO AN INSTITUTION INMATE AS ARE AVAILABLE
15 WITH RESPECT TO A DIVISION OF CORRECTION INMATE.

16 (E) AN INMATE ON PAROLE OR MANDATORY SUPERVISION RELEASE FROM
17 THE INSTITUTION SHALL BE SUPERVISED BY THE DIVISION OF PAROLE AND
18 PROBATION.

19 (F) UNLESS PAROLE IS REVOKED, AN INMATE RELEASED ON PAROLE FROM
20 THE INSTITUTION SHALL REMAIN ON PAROLE STATUS THROUGH THE MAXIMUM
21 EXPIRATION OF THE ORIGINAL SENTENCE.

22 (G) (1) THE PAROLE COMMISSION SHALL HAVE THE EXCLUSIVE
23 JURISDICTION TO CONSIDER WHETHER THERE HAS BEEN A VIOLATION OF THE
24 TERMS AND CONDITIONS OF PAROLE OR MANDATORY SUPERVISION RELEASE FROM
25 THE INSTITUTION AND TO IMPOSE A SANCTION FOR ANY SUCH VIOLATION.

26 (2) THE LAWS RELATING TO PROCEDURES AND SANCTIONS ASSOCIATED
27 WITH VIOLATIONS OF THE TERMS AND CONDITIONS OF RELEASE BY AN INMATE
28 FROM THE DIVISION OF CORRECTION SHALL BE APPLICABLE TO INMATES RELEASED
29 FROM THE INSTITUTION.

30 (3) UNLESS GRANTED REPRIEVE UNDER SUBSECTION (H) OF THIS
31 SECTION, AN INMATE DOES NOT RETAIN ELIGIBLE PERSON STATUS AFTER A PAROLE
32 OR MANDATORY SUPERVISION RELEASE FROM THE INSTITUTION HAS BEEN
33 REVOKED.

34 (H) (1) THE PAROLE COMMISSION SHALL FORWARD A COPY OF ANY
35 DECISION RENDERED IN A RELEASE REVOCATION PROCEEDING RELATING TO A
36 PATUXENT INSTITUTION INMATE TO THE DIRECTOR FOR CONSIDERATION BY THE
37 BOARD OF REVIEW.

38 (2) IN THE DISCRETION OF THE BOARD BY VOTE OF THE MAJORITY, A
39 REVOKED INMATE MAY BE PERMITTED TO RETAIN ELIGIBLE PERSON STATUS.

1 (3) THE BOARD MAY RENDER ITS DECISION FOLLOWING A REVIEW OF
2 RECORDS, WITH OR WITHOUT AN INTERVIEW OF THE INMATE.

3 11A.

4 (a) In this section, "major violation" includes:

5 (1) Escape from [parole,] work release[,] or leave;

6 (2) Failure to return from [parole,] work release[,] or leave within 1
7 hour of the time due, unless the failure to return was due to causes beyond the control
8 of the eligible person;

9 (3) Commission of a new offense, other than a minor traffic violation,
10 while on [parole,] work release[,] or leave;

11 (4) Commission of a major violation of the Institution's disciplinary
12 rules;

13 (5) Violation of any [parole,] work release[,] or leave rule not
14 categorized as a minor violation under the regulations of the Institution; and

15 (6) Use of any controlled dangerous substance if the inmate is not
16 entitled to use the controlled dangerous substance under the laws of this State.

17 (7) DELIBERATE REFUSAL TO PARTICIPATE IN THE PROGRAM AS
18 DIRECTED.

19 (b) (1) Except as provided in paragraph (2) of this subsection, if an eligible
20 person commits a major violation while on [parole,] work release[,] or leave, the
21 person shall be confined to the Institution and shall be ineligible for parole, work
22 release, or leave for a period of at least 6 months.

23 (2) If the board of review or the Secretary determines that a major
24 violation was severe enough to warrant removing an eligible person from the
25 Institution, the eligible person may LOSE ELIGIBLE PERSON STATUS AND be
26 [removed from the Institution and] returned to the Division of Correction [to serve
27 the remainder of the person's original sentence].

28 (3) If an eligible person commits a second major violation while on
29 [parole,] work release[,] or leave, the person shall LOSE ELIGIBLE PERSON STATUS
30 AND be [removed from the Institution and] returned to the Division of Correction [to
31 serve the remainder of the person's original sentence].

32 (4) ANY PERSON LOSING ELIGIBLE PERSON STATUS FOR THE
33 COMMISSION OF A MAJOR VIOLATION SHALL FORFEIT ANY OR ALL GOOD CONDUCT
34 CREDIT AWARDED AGAINST THE INMATE S TERM OF CONFINEMENT UNDER ARTICLE
35 27, §§ 700 AND 704A, AS DETERMINED BY THE BOARD OF REVIEW.

1 11B.

2 If parole or work release has been granted [by the board of review], and the
3 court has ordered restitution as part of the sentence or as a condition of probation, the
4 MARYLAND PAROLE COMMISSION OR THE board of review shall require the eligible
5 person to make restitution payments while on parole or work release as a condition of
6 parole or work release.

7 12.

8 A person transferred to the Institution for evaluation or treatment shall receive
9 full credit against a sentence for the time spent at the Institution, including
10 allowances or disallowances under [§ 700 of] Article 27, §§ 700 AND 704A of the Code
11 as determined by the director.

12 13.

13 (a) The Institution shall compile and maintain a complete record and history
14 of each person transferred to it for evaluation or treatment. This shall include, to the
15 extent not prohibited by federal law, and to the extent they are physically available:

16 (1) Police reports and other relevant information concerning the crime of
17 which the person was most recently convicted and the sentence imposed upon that
18 conviction;

19 (2) The person's prior criminal and juvenile history, and all relevant
20 records concerning it;

21 (3) Presentence investigation, parole, probation, and other reports that
22 have been prepared concerning the person;

23 (4) School records;

24 (5) Information concerning the person's prior medical and mental health
25 history, including relevant medical and hospital records and reports; and

26 (6) All other relevant information, records, and reports concerning the
27 person's social, physical, or mental condition and history.

28 (b) The Institution shall also record a full and accurate description of each
29 person transferred to it for treatment, including photographs. The Institution may
30 adopt the Bertillon or any other accurate method of description, measurement, and
31 registration.

32 (c) State and local officials and agencies shall cooperate with the Institution,
33 and shall, promptly upon request, furnish or cause to be furnished to the Institution
34 the information, records, and reports in their possession in order that the Institution
35 may comply with this section. The provisions of § 3-828 (b) of the Courts Article do
36 not apply with respect to a request made for juvenile records pursuant to this section.

1 (d) To the extent that any records, reports, and information compiled pursuant
2 to this section are legally confidential, they shall remain confidential, and may not be
3 disclosed to any person or agency except:

4 (1) The Commissioner or the Commissioner's authorized staff;

5 (2) The Division of Parole and Probation;

6 (3) The Maryland Parole Commission;

7 (4) A State's Attorney, when required in the prosecution or defense of a
8 proceeding in court;

9 (5) A federal, State, or local law enforcement officer upon a written
10 request signed by an authorized commanding officer of the law enforcement agency
11 certifying that the information is needed for a pending investigation;

12 (6) An authorized correctional official or probation officer of the United
13 States or a state, district, or territory of the United States if that jurisdiction has
14 made reciprocal provision by law for the furnishing of similar information to
15 comparable officials of this State;

16 (7) The Attorney General of Maryland;

17 (8) The Inmate Grievance Commission to the extent relevant to a matter
18 pending before it, and with the written consent of the person to whom the information
19 pertains;

20 (9) The Division of Vocational Rehabilitation of the Department of
21 Education solely for the purpose of determining if a person confined at the Institution
22 qualifies for benefits provided by the Division;

23 (10) Providers of medical care when medical records are required to the
24 extent necessary to assure proper medical treatment;

25 (11) A judge of a circuit court or District Court when required in
26 connection with pretrial release, presentence, or post-sentence investigation; and

27 (12) State, local, federal, and private agencies to the extent the release of
28 the information will benefit an inmate, and with the written consent of the person to
29 whom the information pertains.

30 (e) Confidential information may be disclosed under subsection (d) only if the
31 director is reasonably assured and convinced that:

32 (1) It will be used solely for the legitimate purposes of the person or
33 agency receiving it;

34 (2) It will not be used for any improper or unauthorized purpose; and

1 (3) It will not be further disseminated to any person or agency not
2 authorized to receive it under subsection (d).

3 (f) Juvenile records obtained pursuant to subsection (c) may not be disclosed
4 to any person or agency except those listed in subsection (d) (1), (2), and (3), and then
5 only in accordance with subsection (e).

6 14.

7 The director may determine from time to time whether, and to what extent,
8 persons in the custody of the Institution and selected by the director shall supply
9 goods, wares, merchandise and produce required to be purchased by contracting
10 agencies or political subdivisions under Article 27, §§ 680 through 681M of the Code.
11 15.

12 Upon the approval as required by law, the director of Patuxent Institution may
13 apply for and receive from the federal government or any board, bureau, commission,
14 department or other agency any funds, chattels, or foodstuffs by way of grant or loan
15 that may be available to be used in the establishment, maintenance or program of the
16 Institution.

17 16.

18 Notwithstanding any other provision of law, Patuxent Institution is a
19 correctional institution within the Division of Correction under Title 22, Subtitle 1 of
20 the Education Article for the funding of educational programs only.

21 SECTION 2. AND BE IT FURTHER ENACTED, That the mental health
22 program previously existing under Article 31B is terminated on the effective date of
23 this Act and all inmates in the prior program shall no longer retain eligible person
24 status. For purposes of transition, all former eligible persons shall be presumed to
25 qualify as eligible persons under the program enacted herein until an eligible person
26 assessment can be made at the inmate s next annual review.

27 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
28 October 1, 1998.