

SENATE BILL 65

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1998 Regular Session
8lr6048

(PRE-FILED)

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

Requested: October 23, 1997

Introduced and read first time: January 14, 1998

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Inmates - Confiscation and Forfeiture of Cash and Contraband**

3 FOR the purpose of authorizing the Department of Public Safety and Correctional
4 Services to confiscate currency and certain other property from inmates
5 confined in correctional facilities operated by the Department; requiring the
6 adoption of certain regulations; and generally relating to procedures for
7 controlling contraband within the correctional facilities operated by the
8 Department of Public Safety and Correctional Services.

9 BY repealing and reenacting, with amendments,
10 Article 27 - Crimes and Punishments
11 Section 678A
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 678A.

18 (a) Any personal property of an inmate which comes into possession of [the
19 Division of Correction] AN OFFICIAL OR EMPLOYEE OF ANY CORRECTIONAL
20 FACILITY OPERATED BY THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL
21 SERVICES as the result of an escape by the inmate or because it has been unclaimed
22 by an inmate who has right to its possession shall be held by the Division of
23 Correction for a period of 30 days. During the 30-day period notice shall be posted in
24 a conspicuous location within the [institution] CORRECTIONAL FACILITY where
25 [such] THE property was initially found.

26 (b) If personal property being held by [the Division of Correction] A
27 CORRECTIONAL FACILITY OPERATED BY THE DEPARTMENT OF PUBLIC SAFETY AND

1 CORRECTIONAL SERVICES is claimed within the 30 days, it shall be delivered to the
2 inmate who satisfactorily establishes a right to its possession and gives a proper
3 receipt for the property.

4 (c) (1) The Commissioner OF CORRECTION, THE DIRECTOR OF PATUXENT
5 INSTITUTION, AND THE COMMISSIONER OF PRETRIAL DETENTION AND SERVICES
6 shall adopt [rules and] regulations FOR THE CORRECTIONAL FACILITIES UNDER
7 THEIR RESPECTIVE JURISDICTIONS defining [that] THE property which is
8 contraband [in the institutions of the Division of Correction and], prescribing
9 procedures for the confiscation of contraband by institutional staff, AND PROVIDING
10 INMATES WITH A HEARING CONCERNING THE POSSIBLE FORFEITURE OF THE
11 CONFISCATED PROPERTY.

12 (2) [Any] EXCEPT AS PROVIDED IN PARAGRAPH (3), AN inmate whose
13 property is confiscated shall be notified that [he] THE INMATE has a right to have the
14 property removed from the institution or sent to a person outside the institution at
15 the inmate's expense. If the inmate fails to have the property removed or sent from
16 the institution within 30 days after notice of confiscation, the property will be treated
17 as abandoned property in accordance with the provisions of subsection (d) of this
18 section.

19 (3) CURRENCY, ALCOHOL, FERMENTED JUICES, CONTROLLED
20 DANGEROUS SUBSTANCES, MEDICATIONS, AND PROPERTY THAT CAN BE READILY
21 CONVERTED INTO OR USED AS A WEAPON SHALL BE SUBJECT TO CONFISCATION
22 AND FORFEITURE. PRIOR TO SUCH FORFEITURE, THE INMATE SHALL RECEIVE
23 NOTICE OF THE POSSIBLE FORFEITURE AND SHALL HAVE AN OPPORTUNITY TO BE
24 HEARD WITH RESPECT TO THE FORFEITURE AT A HEARING UNDER THE
25 REGULATIONS FOR THE CORRECTIONAL FACILITY WHERE THE INMATE IS
26 CONFINED.

27 (d) Personal property unclaimed within the period of time referred to in
28 subsection (a) of this section shall be deemed abandoned. Abandoned property may be
29 converted to the use of the Division of Correction, THE PATUXENT INSTITUTION, OR
30 THE DIVISION OF PRETRIAL DETENTION AND SERVICES, sold, or otherwise disposed
31 of according to procedures established by [the Commissioner of Correction]
32 REGULATION. All claims to abandoned property are absolutely barred.

33 (e) (1) Nothing in this section shall be construed to create or recognize any
34 cause, action, or defense, or to abridge any immunity of the [Division of Correction,
35 the Commissioner,] DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL
36 SERVICES, ANY DIVISION OF THE DEPARTMENT, or any OFFICIAL OR employee.

37 (2) Nothing in this section shall affect or limit the authority of the
38 [institutions of the Division] CORRECTIONAL FACILITIES OPERATED BY THE
39 DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES to seize and dispose
40 of personal property [which is contraband per se] in accordance with applicable laws
41 WHERE POSSESSION OF THE PROPERTY IS ILLEGAL.

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