

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

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: January 28, 1998

CHAPTER _____

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

1 by an inmate who has right to its possession shall be held by the ~~Division of~~
2 ~~Correction~~ CORRECTIONAL FACILITY for a period of 30 days. During the 30-day
3 period notice shall be posted in a conspicuous location within the [institution]
4 CORRECTIONAL FACILITY where [such] THE property was initially found.

5 (b) If personal property being held by [the Division of Correction] A
6 CORRECTIONAL FACILITY OPERATED BY THE DEPARTMENT OF PUBLIC SAFETY AND
7 CORRECTIONAL SERVICES is claimed within the 30 days, it shall be delivered to the
8 inmate who satisfactorily establishes a right to its possession and gives a proper
9 receipt for the property.

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

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

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

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

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

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

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