

SENATE BILL 187

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1998 Regular Session
8lr0870
CF 8lr0854

By: **Senators Craig, Fry, and Collins**
Introduced and read first time: January 28, 1998
Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Work-Release State Program and Harford County Program - Prohibitions**

3 FOR the purpose of prohibiting a prisoner in the custody of the State who has been
4 found guilty of a certain rape or sexual offense from participating in a certain
5 work-release program; prohibiting a prisoner in the custody of Harford County
6 who has been found guilty of a certain rape or sexual offense from participating
7 in a work-release program; making certain technical corrections; and generally
8 relating to work-release programs in Harford County and the State.

9 BY repealing and reenacting, with amendments,
10 Article 27 - Crimes and Punishments
11 Section 645U and 700A
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 645U.

18 (a) In Harford County whenever a person shall be convicted of a crime and
19 sentenced to imprisonment in any county, town or city jail or detention center within
20 the County, by any court in the County, the judge imposing sentence may, at the time
21 of sentencing or at any time during the prescribed term of detention, in accordance
22 with such terms and conditions as he deems appropriate prescribe that the person
23 may continue his regular employment, obtain new employment, participate in a
24 training or rehabilitation program, or attend educational institutions in the County,
25 while serving the term of his sentence. However, the prescription shall in no event
26 lengthen or shorten the term of the sentence.

27 (b) The Harford County government shall cooperate in and provide fiscal
28 support for a "work release" program pursuant to subsection (a) under which persons
29 sentenced to imprisonment in the jail, County detention center, or other such similar

1 institution under the jurisdiction of the County, by a judge, may be granted the
2 privilege of leaving actual confinement during necessary and reasonable hours for the
3 purpose of working at gainful private employment. This program may also include,
4 under appropriate conditions, release for the purpose of seeking such employment.
5 Whenever the prisoner is not employed, or otherwise participating in his work release
6 program, he shall be confined in the detention center unless the committing court
7 shall direct otherwise.

8 (c) A prisoner who participates in a work release program authorized under
9 this section shall surrender to the Sheriff of Harford County:

10 (1) A reasonable fee determined by the Sheriff to be the cost of providing
11 food, lodging, and clothing for that prisoner, and of the actual and necessary food,
12 travel, and other expenses incidental to the prisoner's participation in the program;
13 and

14 (2) Court ordered restitution payments.

15 (d) In the event of any violation of trust or conditions proscribed by the court,
16 for conduct and employment, a prisoner may be removed from the work release
17 program and any earned diminution may be cancelled. Failure of a prisoner to comply
18 with the terms of his authorization for leave shall be considered as a violation of the
19 provisions of § 139 of this article.

20 (e) AN INDIVIDUAL IS NOT ELIGIBLE FOR THE WORK-RELEASE PROGRAM IF
21 THAT INDIVIDUAL HAS BEEN FOUND GUILTY OF THE CRIME OF:

22 (1) FIRST DEGREE RAPE UNDER § 462 OF THIS ARTICLE;

23 (2) SECOND DEGREE RAPE UNDER § 463 OF THIS ARTICLE;

24 (3) FIRST DEGREE SEXUAL OFFENSE UNDER § 464 OF THIS ARTICLE;

25 (4) SECOND DEGREE SEXUAL OFFENSE UNDER § 464A OF THIS ARTICLE;

26 (5) THIRD DEGREE SEXUAL OFFENSE UNDER § 464B OF THIS ARTICLE;

27 (6) FOURTH DEGREE SEXUAL OFFENSE UNDER § 464C OF THIS ARTICLE;

28 (7) CHILD ABUSE UNDER § 35C OF THIS ARTICLE;

29 (8) ATTEMPTED RAPE OR SEXUAL OFFENSE UNDER § 464F OF THIS
30 ARTICLE; OR

31 (9) CONSPIRACY TO COMMIT ANY OF THE OFFENSES ENUMERATED IN
32 THIS SUBSECTION.

33 (F) (1) The Sheriff of Harford County shall:

34 (i) Establish and administer a home detention program; and

1 (ii) Adopt rules and regulations for the home detention program.

2 (2) In Harford County whenever a person shall be convicted of a crime
3 and sentenced to imprisonment by any court in the County, the judge imposing
4 sentence may at the time of sentencing or at any time during the individual's
5 incarceration prescribe that the individual participate in the home detention program
6 established under this section.

7 (3) An individual is eligible for the home detention program if:

8 (i) The individual is recommended to be sentenced to the home
9 detention program by the sentencing judge; and

10 (ii) The individual has no other charges pending in any city, county,
11 or state.

12 (4) An individual is not eligible for the home detention program if the
13 individual:

14 (i) Is serving a sentence for a crime of violence as defined in § 643B
15 of this subheading; or

16 (ii) Has been found guilty of the crime of:

17 1. Child abuse under § 35C of this article; or

18 2. Escape under § 139 of this article.

19 700A.

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

27 (b) A prisoner eligible to participate in the "work-release" program in
28 accordance with the preceding subsection may make application to the warden or
29 superintendent of the institution in which he is confined for permission to participate
30 in such program. The application shall include a statement by the prisoner that he
31 agrees to abide by all terms and conditions of the particular plan adopted for him by
32 the Commissioner of Correction or his designee if such application is approved, shall
33 state the name and address of the proposed employer, if any, or of the proposed school
34 training program, if any, and shall contain such other information as the Department
35 or the Commissioner may require, including the prisoner's agreement to waive his
36 right to contest extradition proceedings. The warden or superintendent may, in his
37 discretion, recommend such application to the Commissioner. The Commissioner or
38 his designee may approve, disapprove, or defer action on said recommendation. In the

1 event of approval the Commissioner or his designee shall adopt a "work-release plan"
2 for such prisoner which shall contain such terms and conditions as may be necessary
3 and proper; and such plan shall be signed by the prisoner prior to his participation in
4 the program. At any time after approval has been granted, it may be revoked for any
5 reason by the Commissioner.

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

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

15 (c) The Department shall designate and adopt facilities in the institutions and
16 camps under its jurisdiction for the housing of prisoners granted "work-release"
17 privileges. In areas where such facilities are not within reasonable proximity of the
18 place of employment of a prisoner so released, the Department may contract with the
19 proper authorities of political subdivisions of this State for the quartering of such
20 prisoner in suitable local confinement facilities. In the "work-release" [plan]
21 PROGRAM of any prisoner, the Commissioner shall include as a specific term or
22 condition the place where such prisoner is to be confined when not released for the
23 purposes of the "work-release" program. If any prisoner released from actual
24 confinement under a "work-release" [plan] PROGRAM shall wilfully fail to return to
25 the place of confinement so designated at the time specified in such plan, he shall be
26 guilty of a felony and, upon conviction, shall be subject to the penalties provided in §
27 139 of this article.

28 (d) A prisoner employed in the community under a "work-release" [plan]
29 PROGRAM shall surrender to the Division of Correction his total earnings, less payroll
30 deductions required by law. The Division shall deduct from these earnings, in the
31 following order of priority, an amount determined to be the cost to the State of
32 providing food, lodging and clothing for the prisoner; fees assessed under Article 41, §
33 4-104 of the Code; the actual and necessary food, travel and other expenses of the
34 prisoner when released from actual confinement under the program; the amount
35 which the prisoner may be legally obligated to pay for the support of his dependents,
36 which amount shall be paid to the dependents through the local social services
37 administration in the county or city in which the dependents reside; and the amount
38 ordered to be paid by the court as restitution. Any balance remaining after these
39 deductions and payments shall be credited to the prisoner's account and shall be paid
40 to him upon release. In those cases in which the prisoner's final earnings under a
41 "work-release" [plan] PROGRAM are required to satisfy the obligatory deductions set
42 forth in this subsection, the balance of such earnings shall be forwarded to the
43 prisoner within 15 days of the date of his release from the Division's jurisdiction.

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

7 (F) A PRISONER WHO HAS BEEN CONVICTED OF A RAPE OR SEXUAL OFFENSE
8 UNDER § 462, § 463, § 464, § 464A, § 464B, § 464C, OR § 464F OF THIS ARTICLE IS NOT
9 ELIGIBLE FOR A STATE "WORK-RELEASE" PROGRAM.

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

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