

HOUSE BILL 11

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1999 Regular Session
9r0503

(PRE-FILED)

By: **The Speaker (Department of Legislative Services - Code Revision)**

Requested: July 1, 1998

Introduced and read first time: January 13, 1999

Assigned to: Judiciary

Committee Report: Favorable

House action: Adopted

Read second time: February 23, 1999

CHAPTER _____

1 AN ACT concerning

2 **Correctional Services**

3 FOR the purpose of adding a new article to the Annotated Code of Maryland, to be
4 designated and known as the "Correctional Services Article", to revise, restate,
5 and recodify the laws relating to the State and local correctional systems,
6 including laws that relate to the Department of Public Safety and Correctional
7 Services, the Division of Correction, the Patuxent Institution, the Division of
8 Pretrial Detention and Services, the Division of Parole and Probation, the
9 Maryland Parole Commission, local correctional facilities, standards for
10 correctional facilities, correctional training, interstate and intrastate detainees,
11 community service programs, the rights of inmates, construction of correctional
12 facilities, inmate grievances, sundry claims, inmate welfare funds, diminution
13 credits, community adult rehabilitation centers, correctional farms, and
14 alternatives to incarceration; revising, restating, and recodifying certain
15 provisions relating to the duties of State's Attorneys, the duties of clerks of the
16 court, and the authority of the Board of Public Works; defining certain terms;
17 transferring certain provisions to the Session Laws; providing for the
18 construction and application of this Act; providing for the continuity of a certain
19 incentive-based compensation plan; providing for the continuity of certain units
20 and the terms of certain officials; providing for the continuity of the status of
21 certain transactions, employees, rights, duties, titles, interests, licenses,
22 registrations, certifications, and permits; and generally relating to laws of the
23 State relating to correctional services.

24 BY repealing

25 Article 1 - Rules of Interpretation

26 Section 2A

27 Annotated Code of Maryland

28 (1998 Replacement Volume and 1998 Supplement)

1 BY repealing

2 Article 25 - County Commissioners
3 Section 128 through 134, inclusive, and the subtitle "Prison Farms"
4 Annotated Code of Maryland
5 (1998 Replacement Volume and 1998 Supplement)

6 BY repealing

7 Article 27 - Crimes and Punishments
8 Section 71 through 79, inclusive, and the subheading "Death Penalty"; 122A and
9 the subheading "Contraband, Controlled Dangerous Substances and
10 Liquors in Prisons"; 234 and the subheading "Fugitive Convicts"; 337A,
11 616A through 616J, inclusive, and the sub-subheading "Interstate
12 Agreement on Detainers"; 616K through 616R, inclusive, and the
13 sub-subheading "Same -- Supplemental Provisions"; 616S, 617, 619, 628,
14 633A, 636, 638, 638AC, 639A, 644, 645, 645K through 645NN, inclusive,
15 and the subheading "Employment of Prisoners"; 667 through 710E,
16 inclusive, and the subheading "Division of Correction"; 711A through 726,
17 inclusive, and the subheading "Convict Road Force"; and 726A and the
18 subheading "Community Service Programs"
19 Annotated Code of Maryland
20 (1996 Replacement Volume and 1998 Supplement)

21 BY repealing

22 Article 31B - Patuxent Institution
23 In its entirety
24 Annotated Code of Maryland
25 (1997 Replacement Volume and 1998 Supplement)

26 BY repealing

27 Article 41 - Governor - Executive and Administrative Departments
28 Section 4-101 through 4-104.2, inclusive; 4-105(c), (d), and (e) and the subtitle
29 "Subtitle 1. Department of Public Safety and Correctional Services"; 4-301
30 and the subtitle "Subtitle 3. Correctional Training Commission"; 4-401
31 and the subtitle "Subtitle 4. Commission on Correctional Standards";
32 4-501 through 4-519, inclusive, and the subtitle "Subtitle 5. Maryland
33 Parole Commission"; 4-601 through 4-613, inclusive, and the subtitle
34 "Subtitle 6. Division of Parole and Probation"; 4-701 and the subtitle
35 "Subtitle 7. Sundry Claims Board"; 4-801 through 4-803, inclusive, and
36 the subtitle "Subtitle 8. Uniform Out-of-State Parolee Supervision Act";
37 4-1101 through 4-1105, inclusive, and the subtitle "Subtitle 11. Citizens'
38 Advisory Committees"; 4-1201 through 4-1211, inclusive, and the subtitle
39 "Subtitle 12. Interstate Corrections Compact"; 4-1301 and the subtitle
40 "Subtitle 13. Law Enforcement and Correctional Training Fund"; 4-1401
41 through 4-1409, inclusive; 4-1410(c) and (d), and 4-1414 and the subtitle
42 "Subtitle 14. Division of Pretrial Detention and Services"; and 4-1501 and
43 the subtitle "Subtitle 15. Inmate Welfare Fund"
44 Annotated Code of Maryland
45 (1997 Replacement Volume and 1998 Supplement)

- 1 BY repealing
- 2 Article 78A - Public Works
- 3 Section 7 and 16A
- 4 Annotated Code of Maryland
- 5 (1998 Replacement Volume)

- 6 BY repealing
- 7 Article 87 - Sheriffs
- 8 Section 26 and the subheading "Removal of Convicts to Penitentiary"; and 45
- 9 through 48A, inclusive, and the subheading "Custody of Prisoners"
- 10 Annotated Code of Maryland
- 11 (1998 Replacement Volume)

- 12 BY repealing
- 13 Article 88B - Department of State Police
- 14 Section 26
- 15 Annotated Code of Maryland
- 16 (1998 Replacement Volume)

- 17 BY repealing
- 18 Chapter 82 of the Acts of the General Assembly of 1957
- 19 Section 2

- 20 BY adding
- 21 New Article - Correctional Services
- 22 Section 1-101 through 11-803 and the various titles
- 23 Annotated Code of Maryland

- 24 BY adding to
- 25 Article 10 - Legal Officials
- 26 Section 40A
- 27 Annotated Code of Maryland
- 28 (1998 Replacement Volume and 1998 Supplement)

- 29 BY adding to
- 30 Article 27 - Crimes and Punishments
- 31 Section 414A
- 32 Annotated Code of Maryland
- 33 (1996 Replacement Volume and 1998 Supplement)

- 34 BY adding to
- 35 Article - State Finance and Procurement
- 36 Section 10-501 to be under the new subtitle "Subtitle 5. Payments"

1 Annotated Code of Maryland
2 (1995 Replacement Volume and 1998 Supplement)

3 BY repealing and reenacting, with amendments, and transferring to the Session

4 Laws

5 Article 41 - Governor - Executive and Administrative Departments

6 Section 4-105(a) and (b) and 4-1410(a) and (b)

7 Annotated Code of Maryland

8 (1997 Replacement Volume and 1998 Supplement)

9 BY repealing and reenacting, without amendments, and transferring to the Session

10 Laws

11 Article 41 - Governor - Executive and Administrative Departments

12 Section 4-1411 through 4-1413, inclusive

13 Annotated Code of Maryland

14 (1997 Replacement Volume and 1998 Supplement)

15 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
16 MARYLAND, That Section 2 of Chapter 82 of the Acts of the General Assembly of
17 1957 and the following Section(s) of the Annotated Code of Maryland be repealed:

18 Article 1 - Rules of Interpretation

19 Section 2A

20 Article 25 - County Commissioners

21 Section 128 through 134, inclusive, and the subtitle "Prison Farms"

22 Article 27 - Crimes and Punishments

23 Section 71 through 79, inclusive, and the subheading "Death Penalty"; 122A and
24 the subheading "Contraband, Controlled Dangerous Substances and
25 Liquors in Prisons"; 234 and the subheading "Fugitive Convicts"; 337A,
26 616A through 616J, inclusive, and the sub-subheading "Interstate
27 Agreement on Detainers"; 616K through 616R, inclusive, and the
28 sub-subheading "Same -- Supplemental Provisions"; 616S, 617, 619, 628,
29 633A, 636, 638, 638AC, 639A, 644, 645, 645K through 645NN, inclusive,
30 and the subheading "Employment of Prisoners"; 667 through 710E,
31 inclusive, and the subheading "Division of Correction"; 711A through 726,
32 inclusive, and the subheading "Convict Road Force"; and 726A and the
33 subheading "Community Service Programs"

34 Article 31B - Patuxent Institution

35 In its entirety

1 Article 41 - Governor - Executive and Administrative Departments
 2 Section 4-101 through 4-104.2, inclusive; 4-105(c), (d), and (e) and the subtitle
 3 "Subtitle 1. Department of Public Safety and Correctional Services"; 4-301
 4 and the subtitle "Subtitle 3. Correctional Training Commission"; 4-401
 5 and the subtitle "Subtitle 4. Commission on Correctional Standards";
 6 4-501 through 4-519, inclusive, and the subtitle "Subtitle 5. Maryland
 7 Parole Commission"; 4-601 through 4-613, inclusive, and the subtitle
 8 "Subtitle 6. Division of Parole and Probation"; 4-701 and the subtitle
 9 "Subtitle 7. Sundry Claims Board"; 4-801 through 4-803, inclusive, and
 10 the subtitle "Subtitle 8. Uniform Out-of-State Parolee Supervision Act";
 11 4-1101 through 4-1105, inclusive, and the subtitle "Subtitle 11. Citizens'
 12 Advisory Committees"; 4-1201 through 4-1211, inclusive, and the subtitle
 13 "Subtitle 12. Interstate Corrections Compact"; 4-1301 and the subtitle
 14 "Subtitle 13. Law Enforcement and Correctional Training Fund"; 4-1401
 15 through 4-1409, inclusive; 4-1410(c) and (d), 4-1414 and the subtitle
 16 "Subtitle 14. Division of Pretrial Detention and Services"; and 4-1501 and
 17 the subtitle "Subtitle 15. Inmate Welfare Fund"

18 Article 78A - Public Works
 19 Section 7 and 16A

20 Article 87 - Sheriffs
 21 Section 26 and the subheading "Removal of Convicts to Penitentiary"; and 45
 22 through 48A, inclusive, and the subheading "Custody of Prisoners"

23 Article 88B - Department of State Police
 24 Section 26

25 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
 26 read as follows:

27 **ARTICLE - CORRECTIONAL SERVICES**

28 **TITLE 1. DEFINITIONS; GENERAL PROVISIONS.**

29 **SUBTITLE 1. DEFINITIONS.**

30 **1-101. DEFINITIONS.**

31 **(A) IN GENERAL.**

32 **IN THIS ARTICLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.**

33 **REVISOR'S NOTE:** This subsection is new language used as the standard
 34 introductory language to a definition section.

35 **(B) COMMISSIONER OF CORRECTION.**

1 "COMMISSIONER OF CORRECTION" MEANS THE COMMISSIONER OF THE
2 DIVISION OF CORRECTION.

3 REVISOR'S NOTE: This subsection is new language added to avoid repetition
4 of the full reference to "the Commissioner of the Division of Correction".

5 Defined term: "Division of Correction" § 1-101

6 (C) COMPTROLLER.

7 "COMPTROLLER" MEANS THE COMPTROLLER OF THE STATE.

8 REVISOR'S NOTE: This subsection is new language added to avoid repetition
9 of the full reference to "the Comptroller of the State".

10 (D) CORRECTIONAL FACILITY.

11 "CORRECTIONAL FACILITY" MEANS A FACILITY THAT IS OPERATED FOR THE
12 PURPOSE OF DETAINING OR CONFINING ADULTS WHO ARE CHARGED WITH OR
13 FOUND GUILTY OF A CRIME.

14 REVISOR'S NOTE: This subsection is new language that is derived from
15 former Art. 27, § 122A(a)(4) and, as it referred to jails and other places of
16 confinement or detention, § 704(a).

17 The former references to a "prison", "jail", "pre-release center", and
18 "halfway house" are deleted as included in the comprehensive reference to
19 a "facility that is operated for the purpose of detaining or confining adults
20 who are charged with or found guilty of a crime".

21 The former reference to a place of "legal" confinement is deleted as implicit
22 in the reference to a facility "that is operated for the purpose of detaining
23 or confining adults who are charged with or found guilty of a crime".

24 The former reference to a facility "in this State" is deleted for consistency
25 throughout this article. See, e.g., § 7-403(b) of this article, which refers to
26 an out-of-state correctional facility.

27 The definition of "correctional facility" in former Art. 27, § 122A(a)(4) was
28 applicable only to that section, which is revised in Title 8, Subtitle 8 of this
29 article. Similarly, the reference to "jails and other places used for
30 confinement or detention of adult offenders" in former Art. 27, § 704(a) was
31 applicable only to that section, which is revised in §§ 8-103, 8-104, and
32 8-105 of this article. The comprehensive term that is defined in this
33 subsection applies throughout this article and includes former references
34 to "jail", "prison", "detention center", "penal institution", "reformatory",
35 "institution", "lock-up", "community correctional facility", "work release
36 facility", "pre-release facility", and various other similar terms. See
37 General Revisor's Note to this article.

1 For an interpretation of the meaning of former Art. 27, § 122A(a)(4), see 83
2 Op. Att'y Gen. _____(1998) .

3 (E) COUNTY.

4 "COUNTY" MEANS A COUNTY OF THE STATE AND BALTIMORE CITY.

5 REVISOR'S NOTE: This subsection is new language derived without
6 substantive change from former Art. 27, § 707(d) and former Art. 41, §
7 4-401(b)(3).

8 Article 1, § 14(a) of the Code provides that "county" includes Baltimore
9 City "unless such construction would be unreasonable". Since the word
10 "unreasonable" in that section has been interpreted in various ways, the
11 Correctional Services Article Review Committee decided that an explicit
12 definition of "county" should be included in this article. Therefore, former
13 Art. 27, § 707(d) and former Art. 41, § 4-401(b)(3) are revised in this
14 subsection to apply throughout this article, even though Art. 27, § 707(d)
15 formerly applied only to those provisions now in Title 11, Subtitle 3 of this
16 article and Art. 41, § 4-401(b)(3) formerly applied only to those provisions
17 now in Title 8, Subtitle 2 of this article.

18 (F) DEPARTMENT.

19 "DEPARTMENT" MEANS THE DEPARTMENT OF PUBLIC SAFETY AND
20 CORRECTIONAL SERVICES.

21 REVISOR'S NOTE: This subsection is new language derived without
22 substantive change from former Art. 31B, § 1(d) and former Art. 41, §§
23 4-501(10), 4-1101(d), 4-1301(a)(3), and 4-1402(c).

24 Although these former provisions applied only to particular titles and
25 subtitles, they are revised to apply throughout this article.

26 (G) DIVISION OF CORRECTION.

27 "DIVISION OF CORRECTION" MEANS THE DIVISION OF CORRECTION IN THE
28 DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES.

29 REVISOR'S NOTE: This subsection is new language added to avoid repetition
30 of the full reference to the "Division of Correction in the Department of
31 Public Safety and Correctional Services".

32 (H) DIVISION OF PAROLE AND PROBATION.

33 "DIVISION OF PAROLE AND PROBATION" MEANS THE DIVISION OF PAROLE AND
34 PROBATION IN THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL
35 SERVICES.

1 REVISOR'S NOTE: This subsection is new language added to avoid repetition of
2 the full reference to the "Division of Parole and Probation in the
3 Department of Public Safety and Correctional Services".

4 (I) INMATE.

5 "INMATE" MEANS AN INDIVIDUAL WHO IS ACTUALLY OR CONSTRUCTIVELY
6 DETAINED OR CONFINED IN A CORRECTIONAL FACILITY.

7 REVISOR'S NOTE: This subsection is new language added to provide
8 uniformity throughout this article when referring to an individual who is
9 actually or constructively detained or confined in a correctional facility.

10 The comprehensive term that is defined by this subsection is used
11 throughout this article as a substitute for former references to "felon",
12 "convict", "prisoner", "persons confined", and various other similar terms.

13 Defined term: "Correctional facility" § 1-101

14 (J) LOCAL CORRECTIONAL FACILITY.

15 "LOCAL CORRECTIONAL FACILITY" MEANS A CORRECTIONAL FACILITY THAT IS
16 OPERATED:

17 (1) BY ONE OR MORE COUNTIES; OR

18 (2) BY A MUNICIPAL CORPORATION.

19 REVISOR'S NOTE: This subsection is new language derived without
20 substantive change from former Art. 41, § 4-401(b)(6) and former Art. 27,
21 §§ 645GG(a)(2), 700-I(a)(3), 705(a)(1), 645R, as it defined "jail", and
22 704A(a), except as it referred to the Baltimore City Detention Center.

23 Although these former provisions applied only to particular subtitles and
24 sections, they are revised to apply throughout this article.

25 The former reference to correctional facilities "within the State of
26 Maryland" is deleted as implicit in the reference to "correctional
27 facilit[ies]".

28 The former reference to a correctional facility that is "primarily" operated
29 by a county or municipality is deleted as surplusage.

30 Defined term: "Correctional facility" § 1-101

31 (K) MANAGING OFFICIAL.

32 "MANAGING OFFICIAL" MEANS THE ADMINISTRATOR, DIRECTOR, WARDEN,
33 SUPERINTENDENT, SHERIFF, OR OTHER INDIVIDUAL RESPONSIBLE FOR THE
34 MANAGEMENT OF A CORRECTIONAL FACILITY.

1 REVISOR'S NOTE: This subsection is new language derived without
2 substantive change from former Art. 27, §§ 122A(a)(5), 700-I(a)(2), and, as
3 it defined "sheriff", 645R and former Art. 87, § 46(a).

4 Although these former provisions applied only to particular subheadings
5 and sections, they are revised to apply throughout this article.

6 The former reference to a "jailer" is deleted as obsolete.

7 The comprehensive phrase "responsible for the management" of a
8 correctional facility is added to state expressly that which was formerly
9 only implied in the references to having "the authority to establish policy
10 and procedure" and being "in charge of" a correctional facility.

11 Defined term: "Correctional facility" § 1-101

12 (L) PERSON.

13 "PERSON" MEANS AN INDIVIDUAL, RECEIVER, TRUSTEE, GUARDIAN, PERSONAL
14 REPRESENTATIVE, FIDUCIARY, REPRESENTATIVE OF ANY KIND, PARTNERSHIP, FIRM,
15 ASSOCIATION, CORPORATION, OR OTHER ENTITY.

16 REVISOR'S NOTE: This subsection is new language added to provide an
17 express definition of the term "person".

18 The definition of "person" in this subsection does not include a
19 governmental entity or unit. The Court of Appeals of Maryland has held
20 consistently that the word "person" in a statute does not include the State,
21 its agencies, or subdivisions unless an intention to include these entities is
22 made manifest by the legislature. See, e.g., Unnamed Physician v.
23 Commission on Medical Discipline, 285 Md. 1, 12-14 (1979).

24 As to the term "personal representative", see Art. 1, § 5 of the Code.

25 (M) SECRETARY.

26 "SECRETARY" MEANS THE SECRETARY OF PUBLIC SAFETY AND CORRECTIONAL
27 SERVICES.

28 REVISOR'S NOTE: This section is new language derived without substantive
29 change from former Art. 27, §§ 689A(a)(5), 705(a)(2), and 707(e), former
30 Art. 31B, § 1(j), and former Art. 41, §§ 4-501(11), 4-602A(a)(7), and
31 4-1402(e).

32 Although these former provisions applied only to particular subtitles and
33 sections, they are revised to apply throughout this article.

34 (N) STATE.

35 "STATE" MEANS:

1 (1) A STATE, POSSESSION, TERRITORY, OR COMMONWEALTH OF THE
2 UNITED STATES; OR

3 (2) THE DISTRICT OF COLUMBIA.

4 REVISOR'S NOTE: This subsection is new language added to provide an
5 express definition of the term "state". This definition conforms to the
6 definition of "state" in other revised articles of the Code. See, e.g., IN §
7 1-101(kk), PUC § 1-101(v), and SP § 1-101(o).

8 (O) STATE CORRECTIONAL FACILITY.

9 (1) "STATE CORRECTIONAL FACILITY" MEANS A CORRECTIONAL
10 FACILITY THAT IS OPERATED BY THE STATE.

11 (2) "STATE CORRECTIONAL FACILITY" INCLUDES:

12 (I) THE PATUXENT INSTITUTION;

13 (II) THE BALTIMORE CITY DETENTION CENTER; AND

14 (III) THE CENTRALIZED BOOKING FACILITY IN BALTIMORE CITY
15 THAT IS OPERATED BY THE DIVISION OF PRETRIAL DETENTION AND SERVICES IN
16 THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES.

17 REVISOR'S NOTE: This subsection is new language derived without
18 substantive change from former Art. 41, § 4-401(b)(5).

19 Although the definition of "State correctional facility" in former Art. 41, §
20 4-401(b)(5) applied only to that section, it is revised to apply throughout
21 this article.

22 The former reference to correctional facilities "within the State of
23 Maryland" is deleted as implicit in the reference to "correctional
24 facilit[ies]".

25 The former reference to a correctional facility that is operated "primarily"
26 by the State is deleted as surplusage.

27 The references to the "Baltimore City Detention Center" and the
28 "centralized booking facility in Baltimore City that is operated by the
29 Division of Pretrial Detention and Services in the Department of Public
30 Safety and Correctional Services" are added for clarity.

31 Defined term: "Correctional facility" § 1-101

32 (P) TREASURER.

33 "TREASURER" MEANS THE TREASURER OF THE STATE.

1 REVISOR'S NOTE: This subsection is new language added to avoid repetition
2 of the full title of the "Treasurer of the State".

3 SUBTITLE 2. GENERAL PROVISIONS.

4 1-201. VERIFICATION.

5 A REQUIREMENT IN THIS ARTICLE THAT A DOCUMENT BE VERIFIED MEANS
6 THAT THE DOCUMENT SHALL BE VERIFIED BY A DECLARATION MADE UNDER THE
7 PENALTIES OF PERJURY THAT THE MATTERS AND FACTS CONTAINED IN THE
8 DOCUMENT ARE TRUE TO THE BEST OF THE KNOWLEDGE, INFORMATION, AND
9 BELIEF OF THE INDIVIDUAL MAKING THE DECLARATION.

10 REVISOR'S NOTE: This section is new language added for consistency with
11 other revised articles of the Code. See, e.g., FI § 1-202(b) and EN §
12 1-201(a).

13 Throughout this article, the requirement that a document be "verified" is
14 substituted for the former requirements that a document be "signed and
15 sworn to" or be "sworn to". See, e.g., §§ 3-206(b) and 4-203(d)(3) of this
16 article.

17 TITLE 2. DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES.

18 SUBTITLE 1. DEPARTMENT ESTABLISHED.

19 2-101. ESTABLISHED.

20 THERE IS A DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES
21 ESTABLISHED AS A PRINCIPAL DEPARTMENT OF THE STATE GOVERNMENT.

22 REVISOR'S NOTE: This section is new language derived without substantive
23 change from the first sentence of former Art. 41, § 4-101(a).

24 It is set forth as a separate section for emphasis.

25 See also SG § 8-201, which lists the principal departments of State
26 government.

27 2-102. SECRETARY.

28 (A) POSITION AND APPOINTMENT.

29 (1) WITH THE ADVICE AND CONSENT OF THE SENATE, THE GOVERNOR
30 SHALL APPOINT THE SECRETARY OF PUBLIC SAFETY AND CORRECTIONAL SERVICES.

31 (2) THE SECRETARY IS THE HEAD OF THE DEPARTMENT.

32 (B) OATH.

1 BEFORE TAKING OFFICE, THE APPOINTEE SHALL TAKE THE OATH REQUIRED
2 BY ARTICLE I, § 9 OF THE MARYLAND CONSTITUTION.

3 (C) RESPONSIBILITY TO GOVERNOR.

4 (1) THE SECRETARY SERVES AT THE PLEASURE OF THE GOVERNOR AND
5 IS RESPONSIBLE DIRECTLY TO THE GOVERNOR.

6 (2) THE SECRETARY SHALL ADVISE THE GOVERNOR ON ALL MATTERS
7 ASSIGNED TO THE DEPARTMENT AND IS RESPONSIBLE FOR CARRYING OUT THE
8 GOVERNOR'S POLICIES ON PUBLIC SAFETY, CRIME PREVENTION, CORRECTION,
9 PAROLE, AND PROBATION.

10 (D) COMPENSATION.

11 THE SECRETARY IS ENTITLED TO THE COMPENSATION PROVIDED IN THE STATE
12 BUDGET.

13 REVISOR'S NOTE: Subsections (a), (c), and (d) of this section are new language
14 derived without substantive change from former Art. 41, § 4-101(b) and
15 the second sentence of (a).

16 Subsection (b) of this section is standard language added to state the
17 requirement that an individual appointed to any office of profit or trust
18 take the oath specified in Md. Constitution, Art. I, § 9. This addition is
19 supported by 64 Op. Att'y Gen. 246 (1979).

20 In subsection (c)(2) of this section, the former reference to "counsel[ing]"
21 the Governor is deleted as surplusage in light of the reference to
22 "advis[ing]" the Governor.

23 The Correctional Services Article Review Committee notes, for
24 consideration by the General Assembly, that the Secretary's
25 responsibilities in the areas of public safety and crime prevention, as set
26 forth in subsection (c) of this section, overlap with similar responsibilities
27 of the Department of State Police and the State militia. Under Art. 88B, §
28 3, the Department of State Police has "the general duty to safeguard the
29 lives and safety of all persons within the State, to protect property, and ...
30 [s]pecifically ... to preserve the public peace; to detect and prevent the
31 commission of crime; to enforce the laws and ordinances of the State and
32 local subdivisions; [and] to apprehend and arrest criminals and those who
33 violate or are lawfully accused of violating such laws and ordinances ...".
34 Under Art. 65, § 8, the State militia, when on active duty "shall be vested,
35 in enforcing the laws of this State, with all the authority of peace or police
36 officers". The General Assembly may wish to clarify that the Secretary
37 does not have exclusive responsibilities in the areas of public safety and
38 crime prevention.

39 In subsection (d) of this section, the reference to the Secretary's
40 "compensation" is substituted for the former reference to the Secretary's

1 "salary" for accuracy and consistency throughout this article. See General
2 Revisor's Note to this article. The Correctional Services Article Review
3 Committee notes, for consideration by the General Assembly, that other
4 secretaries of principal departments of State government are entitled to
5 "salaries". See, e.g., AG § 2-102(b), BR § 2-102(d), EN § 1-402(c), HG §
6 2-102(c), SF §§ 3-202(e) and 4-202(d), and TR § 2-102(b)(3). The General
7 Assembly may wish to conform the relevant statutory provisions to
8 subsection (d) of this section.

9 Defined terms: "Department" § 1-101

10 "Secretary" § 1-101

11 2-103. ADMINISTRATION OF DEPARTMENT.

12 (A) ADMINISTRATION.

13 THE SECRETARY IS RESPONSIBLE FOR THE OPERATION OF THE DEPARTMENT
14 AND SHALL ESTABLISH GUIDELINES AND PROCEDURES TO PROMOTE THE ORDERLY
15 AND EFFICIENT ADMINISTRATION OF THE DEPARTMENT.

16 (B) AREAS OF RESPONSIBILITY.

17 THE SECRETARY MAY ESTABLISH, REORGANIZE, OR ABOLISH AREAS OF
18 RESPONSIBILITY IN THE OFFICE OF THE SECRETARY AS NECESSARY TO FULFILL
19 EFFECTIVELY THE DUTIES ASSIGNED TO THE SECRETARY.

20 REVISOR'S NOTE: This section is new language derived without substantive
21 change from former Art. 41, § 4-101(c) and, as it authorized the Secretary
22 to establish areas of responsibility, the second sentence of § 4-103(b)(1).

23 Defined terms: "Department" § 1-101

24 "Secretary" § 1-101

25 2-104. SEAL.

26 THE SECRETARY SHALL HAVE A SEAL.

27 REVISOR'S NOTE: This section is new language derived without substantive
28 change from former Art. 41, § 4-104(f).

29 The former reference to using the seal "for purposes of authentication" of
30 certain documents is deleted as implicit in the reference to a "seal" and for
31 consistency with similar provisions in other revised articles of the Code.
32 See, e.g., BR § 2-104(b), HG § 2-104(e), and SF §§ 3-204(d) and 4-204(d).

33 Defined term: "Secretary" § 1-101

34 2-105. DEPUTY SECRETARY.

35 (A) APPOINTMENT.

1 WITH THE APPROVAL OF THE GOVERNOR, THE SECRETARY SHALL APPOINT
2 TWO DEPUTY SECRETARIES.

3 (B) TERM AND COMPENSATION.

4 THE DEPUTY SECRETARIES:

5 (1) SERVE AT THE PLEASURE OF THE SECRETARY; AND

6 (2) ARE ENTITLED TO THE COMPENSATION PROVIDED IN THE STATE
7 BUDGET.

8 (C) DUTIES.

9 THE DEPUTY SECRETARIES:

10 (1) SHALL ASSIST THE SECRETARY IN ADMINISTERING THE
11 DEPARTMENT; AND

12 (2) HAVE THE OTHER DUTIES PROVIDED BY LAW OR DELEGATED BY THE
13 SECRETARY.

14 (D) ACTING SECRETARY.

15 THE SECRETARY SHALL DESIGNATE A DEPUTY SECRETARY TO BE THE ACTING
16 SECRETARY WHEN THE SECRETARY IS ABSENT FROM THE STATE OR OTHERWISE
17 UNAVAILABLE.

18 (E) AUTHORITY TO REMOVE.

19 IF THE SECRETARY IS REQUIRED BY LAW TO MAKE AN APPOINTMENT, WITH
20 THE APPROVAL OF THE GOVERNOR, TO A PARTICULAR OFFICE WITHIN THE
21 DEPARTMENT AND THE APPOINTEE IS REQUIRED BY LAW TO SERVE AT THE
22 PLEASURE OF THE SECRETARY, THE SECRETARY MAY NOT REMOVE THE APPOINTEE
23 WITHOUT FIRST OBTAINING THE GOVERNOR'S APPROVAL.

24 REVISOR'S NOTE: This section is new language derived without substantive
25 change from former Art. 41, § 4-103(a) and (e).

26 In subsection (b)(2) of this section, the reference to "compensation" is
27 substituted for the former reference to "salary" for accuracy and
28 consistency throughout this article. See General Revisor's Note to this
29 article.

30 Defined terms: "Department" § 1-101

31 "Secretary" § 1-101

32 2-106. STAFF -- SECRETARY'S OFFICE.

33 (A) IN GENERAL.

1 IN ACCORDANCE WITH THE STATE BUDGET, THE SECRETARY MAY EMPLOY A
2 STAFF ATTACHED TO THE OFFICE OF THE SECRETARY.

3 (B) AREAS OF RESPONSIBILITY.

4 THE SECRETARY MAY DESIGNATE A STAFF ASSISTANT TO BE IN CHARGE OF A
5 PARTICULAR AREA OF RESPONSIBILITY IN THE OFFICE OF THE SECRETARY.

6 (C) EMPLOYMENT STATUS.

7 (1) (I) THE SECRETARY SHALL APPOINT EACH STAFF ASSISTANT IN
8 THE OFFICE OF THE SECRETARY IN CHARGE OF A PARTICULAR AREA OF
9 RESPONSIBILITY AND EACH PROFESSIONAL CONSULTANT.

10 (II) AN EMPLOYEE SPECIFIED IN ITEM (I) OF THIS PARAGRAPH:

11 1. IS IN THE EXECUTIVE SERVICE OR MANAGEMENT
12 SERVICE OF, OR IS A SPECIAL APPOINTMENT UNDER, THE STATE PERSONNEL
13 MANAGEMENT SYSTEM; AND

14 2. SERVES AT THE PLEASURE OF THE SECRETARY.

15 (2) UNLESS OTHERWISE PROVIDED BY LAW, THE SECRETARY SHALL
16 APPOINT AND REMOVE ALL OTHER EMPLOYEES IN THE OFFICE OF THE SECRETARY
17 IN ACCORDANCE WITH THE PROVISIONS OF THE STATE PERSONNEL AND PENSIONS
18 ARTICLE.

19 REVISOR'S NOTE: This section is new language derived without substantive
20 change from former Art. 41, § 4-103(b)(2) and (3), the first sentence of (1)
21 and, as it allows the Secretary to make a designation, the second sentence.

22 In subsection (a) of this section, the word "may" is substituted for the
23 former reference to the word "shall" for consistency with similar provisions
24 in other revised articles of the Code. See, e.g., BR § 2-103(b)(1), SF §
25 4-203(b)(1), BOP §§ 14-204(d) and 5-204(e)(1), EN § 1-403(b)(1), SF §§
26 3-203(c)(1) and 5-203(a), SG §§ 2-1606(b), 5-105(a), 6-105(a)(1), and
27 9-108(e)(1), HG § 2-103(b)(1), HO § 17-204(d), and FI § 2-104.

28 Also in subsection (a) of this section, the reference to a "staff" is
29 substituted for the former specific reference to "assistants, professional
30 consultants and employees" for brevity and consistency with similar
31 provisions in other revised articles of the Code. See, e.g., BR § 2-103(b)(1),
32 SF § 4-203(b)(1), BOP §§ 14-204(d) and 5-204(e)(1), EN § 1-403(b)(1), SF
33 §§ 3-203(c)(1) and 5-203(a), SG §§ 2-1606(b), 5-105(a), 6-105(a)(1), and
34 9-108(e)(1), HG § 2-103(b)(1), HO § 17-204(d), and FI § 2-104.

35 In subsection (b) of this section, the term "staff assistant" is substituted for
36 the former reference to "assistants" for consistency with subsection (c) of
37 this section.

1 In subsection (c)(1)(i) of this section, the reference to "appoint[ment]" is
2 added to state expressly that which was only implied in the former law and
3 for consistency with subsection (c)(2) of this section.

4 Defined term: "Secretary" § 1-101

5 2-107. SAME -- SERVICE OF DOCUMENTS.

6 THE SECRETARY MAY DESIGNATE EMPLOYEES OF THE DEPARTMENT TO SERVE
7 A CRIMINAL SUMMONS, WARRANT, OR CHARGING DOCUMENT AS PROVIDED IN §
8 6-309 OF THE COURTS ARTICLE.

9 REVISOR'S NOTE: This section formerly was Art. 41, § 4-104(j).

10 The only changes are in style.

11 Defined terms: "Department" § 1-101

12 "Secretary" § 1-101

13 2-108. SAME -- OTHER UNITS.

14 (A) APPROVAL BY SECRETARY.

15 THE APPOINTMENT OR REMOVAL OF PERSONNEL BY A UNIT OR APPOINTING
16 OFFICER IN THE DEPARTMENT IS SUBJECT TO THE APPROVAL OF THE SECRETARY.

17 (B) AUTHORITY TO DELEGATE.

18 THE SECRETARY MAY DELEGATE THE POWER OF APPROVAL ESTABLISHED
19 UNDER SUBSECTION (A) OF THIS SECTION TO THE HEAD OR GOVERNING BODY OF
20 THE UNIT.

21 REVISOR'S NOTE: This section is new language derived without substantive
22 change from former Art. 41, § 4-103(c).

23 In subsections (a) and (b) of this section, the references to a "unit" are
24 substituted for the former list of unit types, i.e., boards, commissions,
25 divisions, and agencies, for brevity. See General Revisor's Note to this
26 article.

27 In subsection (a) of this section, the former reference to "the jurisdiction" of
28 the Department is deleted as surplusage. All units or appointing officers in
29 the Department's jurisdiction are "in the Department". See General
30 Revisor's Note to this article.

31 Defined terms: "Department" § 1-101

32 "Secretary" § 1-101

33 2-109. REGULATIONS.

34 (A) OFFICE OF SECRETARY.

1 THE SECRETARY SHALL ADOPT REGULATIONS FOR THE OFFICE OF THE
2 SECRETARY.

3 (B) REVIEW OF REGULATIONS OF UNITS.

4 (1) THE SECRETARY SHALL REVIEW REGULATIONS PROPOSED BY A
5 UNIT IN THE DEPARTMENT.

6 (2) THE SECRETARY MAY APPROVE, DISAPPROVE, OR REVISE
7 REGULATIONS PROPOSED BY A UNIT IN THE DEPARTMENT.

8 (C) CORRECTIONAL FACILITIES.

9 (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE
10 SECRETARY SHALL ADOPT REGULATIONS TO GOVERN THE POLICIES AND
11 MANAGEMENT OF CORRECTIONAL FACILITIES IN THE DIVISION OF CORRECTION IN
12 ACCORDANCE WITH TITLE 10, SUBTITLE 1 OF THE STATE GOVERNMENT ARTICLE.

13 (2) PARAGRAPH (1) OF THIS SUBSECTION DOES NOT APPLY TO A
14 GUIDELINE PERTAINING TO THE ROUTINE INTERNAL MANAGEMENT OF
15 CORRECTIONAL FACILITIES IN THE DIVISION OF CORRECTION.

16 REVISOR'S NOTE: This section is new language derived without substantive
17 change from former Art. 41, § 4-104(b) and (h).

18 In subsections (a) and (b) of this section, the former references to "rules"
19 are deleted for consistency throughout this article. See General Revisor's
20 Note to this article.

21 In subsection (b) of this section, the reference to a "unit" is substituted for
22 the former list of unit types, i.e., boards, commissions, divisions, and
23 agencies, for brevity. See General Revisor's Note to this article.

24 Also in subsection (b) of this section, the former reference to "the
25 jurisdiction" of the Department is deleted as surplusage. All units in the
26 Department's jurisdiction are "in the Department". See General Revisor's
27 Note to this article.

28 In subsection (b)(1) and (2) of this section, the reference to regulations that
29 are "proposed" by a unit is added to state expressly that which was only
30 implied by the former reference to "review[ing] ... approv[ing],
31 disapprov[ing] or revis[ing]" regulations.

32 In subsection (c)(1) of this section, the former statement "notwithstanding
33 the provisions of § 10-101(g)(2)(i) of the State Government Article", which
34 provides that some internal management guidelines are not "regulations",
35 is deleted as unnecessary in light of the absolute exclusion for internal
36 management guidelines in subsection (c)(2) of this section.

1 Defined terms: "Correctional facility" § 1-101

2 "Department" § 1-101

3 "Division of Correction" § 1-101

4 "Secretary" § 1-101

5 2-110. SECRETARY'S DUTIES -- BUDGET.

6 THE SECRETARY IS RESPONSIBLE FOR THE BUDGET OF THE OFFICE OF THE
7 SECRETARY AND FOR THE BUDGET OF EACH UNIT IN THE DEPARTMENT.

8 REVISOR'S NOTE: This section is new language derived without substantive
9 change from former Art. 41, § 4-104(a).

10 The reference to a "unit" is substituted for the former list of unit types, i.e.,
11 boards, commissions, divisions, and agencies, for brevity. See General
12 Revisor's Note to this article.

13 The former reference to "the jurisdiction of" the Department is deleted as
14 surplusage. All units in the Department's jurisdiction are "in" the
15 Department. See General Revisor's Note to this article.

16 Defined terms: "Department" § 1-101

17 "Secretary" § 1-101

18 2-111. SAME -- PLANS AND ACTIVITIES.

19 (A) IN GENERAL.

20 THE SECRETARY IS RESPONSIBLE FOR PLANNING ACTIVITIES OF THE
21 DEPARTMENT.

22 (B) AUTHORITY TO REVIEW.

23 THE SECRETARY MAY REVIEW AND APPROVE, DISAPPROVE, OR REVISE THE
24 PLANS, PROPOSALS, AND PROJECTS OF UNITS IN THE DEPARTMENT.

25 REVISOR'S NOTE: This section is new language derived without substantive
26 change from former Art. 41, § 4-104(e).

27 In subsection (b) of this section, the reference to "units" is substituted for
28 the former reference to "agencies" for consistency throughout this article.
29 See General Revisor's Note to this article.

30 Defined terms: "Department" § 1-101

31 "Secretary" § 1-101

32 2-112. SAME -- EVALUATION OF UNITS.

33 (A) IN GENERAL.

1 THE SECRETARY MAY AUTHORIZE AN EVALUATION OR STUDY OF THE
2 OPERATION AND EFFECTIVENESS OF ANY UNIT IN THE DEPARTMENT.

3 (B) RECORDS.

4 (1) THE SECRETARY MAY MAKE THE RECORDS OF ANY INMATE OR UNIT
5 AVAILABLE TO A PERSON WHO IS AUTHORIZED TO CONDUCT AN EVALUATION OR
6 STUDY UNDER SUBSECTION (A) OF THIS SECTION.

7 (2) A PERSON WHO OBTAINS A RECORD AS PROVIDED UNDER THIS
8 SUBSECTION MAY NOT TRANSMIT BY ANY MEANS THE RECORD OR ANY
9 INFORMATION CONTAINED IN THE RECORD TO A PERSON OTHER THAN THE
10 SECRETARY.

11 (C) PUBLICATION.

12 EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, THE EVALUATION
13 OR STUDY SHALL BE:

14 (1) REPORTED TO THE SECRETARY; AND

15 (2) RELEASED TO THE PUBLIC BY THE SECRETARY.

16 (D) CONFIDENTIALITY.

17 THE EVALUATION OR STUDY MAY NOT CONTAIN THE NAME OF AN INMATE
18 UNLESS THE INMATE AND THE SECRETARY CONSENT.

19 REVISOR'S NOTE: This section is new language derived without substantive
20 change from former Art. 41, § 4-104(g).

21 In subsections (a) and (b)(1) of this section, the references to a "unit" are
22 substituted for the former references to an "agency" and an "institutional,
23 or other agency" for brevity and consistency throughout this article. See
24 General Revisor's Note to this article.

25 In subsection (b)(1) of this section, the former phrase "for purposes of the
26 evaluation or study" is deleted as implicit in the authority of the Secretary
27 to make the specified materials available only to a person who is
28 conducting an authorized evaluation or study.

29 Defined terms: "Department" § 1-101

30 "Inmate" § 1-101

31 "Person" § 1-101

32 "Secretary" § 1-101

33 2-113. SECRETARY'S POWERS -- ASSUMPTION OF FUNCTIONS.

34 (A) IN GENERAL.

1 EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THE SECRETARY
2 MAY EXERCISE ANY POWER, DUTY, RESPONSIBILITY, OR FUNCTION OF ANY UNIT,
3 UNIT HEAD, OR APPOINTING OFFICER IN THE DEPARTMENT.

4 (B) EXCEPTIONS.

5 THE SECRETARY MAY NOT EXERCISE A POWER, DUTY, RESPONSIBILITY, OR
6 FUNCTION THAT IS SET FORTH IN:

7 (1) §§ 7-204(B)(2), 7-205(A), AND 7-401 OF THIS ARTICLE; OR

8 (2) TITLE 10, SUBTITLE 3 OF THIS ARTICLE.

9 REVISOR'S NOTE: This section is new language derived without substantive
10 change from former Art. 41, § 4-104(c)(1).

11 In subsection (a) of this section, the references to a "unit" are substituted
12 for the former list of unit types, i.e., boards, commissions, divisions, and
13 agencies, for brevity. See General Revisor's Note to this article.

14 Also in subsection (a) of this section, the former reference to "the
15 jurisdiction of" the Department is deleted as surplusage. All of the listed
16 entities that are in the jurisdiction of the Department are also "in" the
17 Department. See General Revisor's Note to this article.

18 The last clause of former Art. 41, § 4-104(c)(1), which is revised in
19 subsection (b) of this section, provided that the Secretary may not exercise
20 or perform the powers granted to the Parole Commission or the Sundry
21 Claims Board under former Art. 41, §§ 4-504(a) and (c), 4-507(b), 4-511,
22 and 4-701. However, former Art. 41, § 4-511(f), which is revised in § 7-804
23 of this article, imposed certain notification duties on the Department of
24 Public Safety and Correctional Services. To avoid an inconsistency between
25 subsection (b) of this section and § 7-804 of this article, subsection (a) of
26 this section does not prohibit the Secretary from exercising or performing
27 the duties specified in § 7-804 of this article. In this way, subsection (b) of
28 this section is technically narrower in scope than former Art. 41, §
29 4-104(c)(1). However, no substantive change is intended.

30 Defined terms: "Department" § 1-101

31 "Secretary" § 1-101

32 2-114. SAME -- TRANSFER OF FUNCTIONS.

33 (A) IN GENERAL.

34 TO INCREASE EFFICIENCY AND ECONOMY, THE SECRETARY MAY TRANSFER,
35 ASSIGN, OR REASSIGN ANY FUNCTION, ACTIVITY, OR STAFF, AND THE ASSOCIATED
36 FUNDS AND EQUIPMENT, FROM A UNIT IN THE DEPARTMENT TO ANOTHER UNIT IN
37 THE DEPARTMENT.

1 (B) LIMITATIONS.

2 (1) A TRANSFER AUTHORIZED BY THIS SECTION SHALL BE MADE IN
3 ACCORDANCE WITH THE STATE PERSONNEL AND PENSIONS ARTICLE AND THE
4 STATE FINANCE AND PROCUREMENT ARTICLE.

5 (2) EXCEPT FOR A WARDEN, ASSISTANT WARDEN, OR A CHIEF OF
6 SECURITY OF A STATE CORRECTIONAL FACILITY, AN EMPLOYEE OF THE
7 DEPARTMENT MAY NOT BE TRANSFERRED OR REASSIGNED INVOLUNTARILY TO A
8 WORK SITE THAT IS MORE THAN 50 MILES FROM THE WORK SITE TO WHICH THE
9 EMPLOYEE PREVIOUSLY WAS ASSIGNED.

10 (C) CHANGE OF NAME OF UNIT.

11 (1) IF THE TRANSFER OF A FUNCTION OR ACTIVITY UNDER THIS
12 SECTION RENDERS THE NAME OF A UNIT IN THE DEPARTMENT MISLEADING OR
13 INADEQUATE, THE SECRETARY MAY, WITH THE GOVERNOR'S APPROVAL, RENAME
14 THE AFFECTED UNIT.

15 (2) IF THE SECRETARY RENAMES A UNIT AS PROVIDED UNDER
16 PARAGRAPH (1) OF THIS SUBSECTION, THE SECRETARY SHALL SUBMIT LEGISLATION
17 DURING THE NEXT SESSION OF THE GENERAL ASSEMBLY TO MAKE ANY NECESSARY
18 CONFORMING CHANGES TO THE CODE.

19 REVISOR'S NOTE: This section is new language derived without substantive
20 change from former Art. 41, § 4-104(c)(2).

21 Defined terms: "Department" § 1-101

22 "Secretary" § 1-101

23 "State correctional facility" § 1-101

24 2-115. SAME -- ADVISORY UNITS.

25 IN ADDITION TO ANY ADVISORY BOARDS ESTABLISHED BY LAW, THE
26 SECRETARY, WITH THE APPROVAL OF THE GOVERNOR, MAY CREATE ADVISORY UNITS
27 OR USE AS AN ADVISORY UNIT ANY EXISTING COMMISSION ESTABLISHED BY
28 EXECUTIVE ORDER.

29 REVISOR'S NOTE: This section is new language derived without substantive
30 change from former Art. 41, § 4-104(d).

31 The former reference to boards "as are or may be" established by law is
32 deleted for brevity.

33 The former reference to advisory units being "of such size as he deems
34 appropriate" is deleted as implicit in the comprehensive authority to
35 "create advisory units".

36 The reference to a "unit" is substituted for the former reference to "boards"
37 for consistency throughout this article. See General Revisor's Note to this

1 article.

2 Defined term: "Secretary" § 1-101

3 2-116. LEGAL COUNSEL.

4 (A) SCOPE.

5 THIS SECTION DOES NOT APPLY TO A UNIT IN THE DEPARTMENT TO THE
6 EXTENT THAT THE UNIT IS AUTHORIZED BY LAW TO EMPLOY ITS OWN LEGAL
7 ADVISER OR COUNSEL.

8 (B) ATTORNEY GENERAL AS LEGAL ADVISER.

9 THE ATTORNEY GENERAL IS THE LEGAL ADVISER TO THE DEPARTMENT.

10 (C) ASSIGNMENT OF ASSISTANTS.

11 THE ATTORNEY GENERAL SHALL ASSIGN TO THE DEPARTMENT THE NUMBER
12 OF ASSISTANT ATTORNEYS GENERAL THAT ARE AUTHORIZED BY LAW FOR THE
13 DEPARTMENT AND ITS UNITS.

14 (D) COUNSEL.

15 (1) THE ATTORNEY GENERAL SHALL DESIGNATE ONE OF THE
16 ASSISTANT ATTORNEYS GENERAL ASSIGNED TO THE DEPARTMENT AS COUNSEL TO
17 THE DEPARTMENT AND MAY NOT REASSIGN THAT INDIVIDUAL WITHOUT
18 CONSULTING WITH THE SECRETARY.

19 (2) THE COUNSEL MAY HAVE NO DUTY OTHER THAN TO GIVE THE
20 LEGAL AID, ADVICE, AND COUNSEL REQUIRED BY THE SECRETARY OR ANY OTHER
21 OFFICIAL OF THE DEPARTMENT, TO SUPERVISE THE OTHER ASSISTANT ATTORNEYS
22 GENERAL ASSIGNED TO THE DEPARTMENT, AND TO PERFORM FOR THE
23 DEPARTMENT THE DUTIES THAT THE ATTORNEY GENERAL ASSIGNS.

24 (3) THE COUNSEL SHALL PERFORM THE DUTIES SPECIFIED IN
25 PARAGRAPH (2) OF THIS SUBSECTION SUBJECT TO THE CONTROL AND DISCRETION
26 OF THE ATTORNEY GENERAL.

27 REVISOR'S NOTE: This section is new language derived without substantive
28 change from former Art. 41, § 4-103(d).

29 In subsection (a) of this section, the former reference to "agencies ... of
30 government" in the Department is deleted in light of the generic reference
31 to "unit" in the Department. Correspondingly, in subsection (c) of this
32 section, the reference to "units" is substituted for the former reference to
33 "various departments, agencies, boards, commissions, [and] councils". See
34 General Revisor's Note to this article.

35 In subsection (c) of this section, the former reference to units "which are
36 herein, or may hereafter by law be deemed to be part of the Department" is

1 deleted as implicit in the reference to "the Department and its units".

2 In subsection (d)(1) of this section, the reference to "that individual" is
3 substituted for the former reference to "said counsel" for clarity because
4 the restriction on reassignment applies to the individual designated as
5 counsel, not to the title "counsel".

6 The fifth and sixth sentences of former Art. 41, § 4-103(d), which enabled
7 the Attorney General to assign work to assistant Attorneys General,
8 required them to do the assigned work, required them to be lawyers, and
9 provided for their compensation, are deleted as unnecessary in light of SG
10 § 6-105.

11 Defined terms: "Department" § 1-101

12 "Secretary" § 1-101

13 2-117. AUTHORITY TO ASSIGN SUPERVISION OF INMATES, PAROLEES, AND OTHERS.

14 WITH THE APPROVAL OF THE SECRETARY, THE CARE, CONTROL, OR
15 SUPERVISION OF AN INDIVIDUAL IN A STATE CORRECTIONAL FACILITY, ON PAROLE,
16 OR ON MANDATORY SUPERVISION MAY BE ASSIGNED TO ANY EMPLOYEE OF THE
17 DEPARTMENT WHO HAS PROPER CERTIFICATION FROM THE MARYLAND
18 CORRECTIONAL TRAINING COMMISSION.

19 REVISOR'S NOTE: This section formerly was Art. 41, § 4-105(e).

20 The reference to a State correctional "facility" is substituted for the former
21 reference to a State correctional "institution" for consistency throughout
22 this article. See General Revisor's Note to this article.

23 The only other changes are in style.

24 Defined terms: "Department" § 1-101

25 "Secretary" § 1-101

26 "State correctional facility" § 1-101

27 2-118. FEE FOR MEDICAL SERVICES TO INMATE.

28 (A) SCOPE.

29 THIS SECTION APPLIES TO INMATES IN A STATE CORRECTIONAL FACILITY.

30 (B) IN GENERAL.

31 (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE
32 SECRETARY SHALL ASSESS A REASONABLE FEE NOT TO EXCEED \$4 FOR EACH VISIT
33 BY AN INMATE TO A MEDICAL UNIT, PHYSICIAN, DENTIST, OR OPTOMETRIST FOR
34 HEALTH CARE SERVICES.

35 (2) THE SECRETARY MAY NOT ASSESS A FEE FOR HEALTH CARE
36 SERVICES THAT ARE:

- 1 (I) REQUIRED AS A PART OF THE INTAKE PROCESS;
- 2 (II) REQUIRED FOR AN INITIAL PHYSICAL EXAMINATION;
- 3 (III) DUE TO A REFERRAL BY A NURSE OR PHYSICIAN'S ASSISTANT;
- 4 (IV) PROVIDED DURING A FOLLOW-UP VISIT THAT IS INITIATED BY
- 5 A MEDICAL PROFESSIONAL FROM THE CORRECTIONAL FACILITY;
- 6 (V) REQUIRED FOR NECESSARY TREATMENT; OR
- 7 (VI) INITIATED BY A MEDICAL OR MENTAL HEALTH STAFF MEMBER
- 8 OF THE CORRECTIONAL FACILITY.
- 9 (C) REGULATIONS.

10 THE SECRETARY SHALL ADOPT REGULATIONS TO IMPLEMENT AND COLLECT
 11 THE FEES REQUIRED BY THIS SECTION.

12 REVISOR'S NOTE: This section is new language derived without substantive
 13 change from former Art. 41, § 4-104(i).

14 In subsection (a) of this section, the reference to "inmates" is substituted
 15 for the former reference to "prisoners" to conform to the nomenclature used
 16 by the Department and for consistency throughout this article.
 17 Correspondingly, the reference to an "inmate" is substituted for the former
 18 reference to a "prisoner" in subsection (b)(1) of this section.

19 The former reference to inmates "housed" in a State correctional facility is
 20 deleted as implicit in the reference to inmates in a State correctional
 21 facility.

22 In subsection (b)(2)(iv) of this section, the reference to services "provided
 23 during a follow-up visit that is initiated by" a medical professional is
 24 substituted for the former reference to services "[i]nitiating, as a follow-up
 25 visit, by" a medical professional to state expressly that which was only
 26 implied in the former law, i.e., that the follow-up visit is recommended by
 27 a medical professional, not the inmate.

28 Defined terms: "Correctional facility" § 1-101

29 "Department" § 1-101

30 "Inmate" § 1-101

31 "Secretary" § 1-101

32 "State correctional facility" § 1-101

SUBTITLE 2. UNITS IN DEPARTMENT.

2 2-201. UNITS IN DEPARTMENT.

3 THE FOLLOWING UNITS ARE IN THE DEPARTMENT:

- 4 (1) THE DIVISION OF CORRECTION;
- 5 (2) THE DIVISION OF PAROLE AND PROBATION;
- 6 (3) THE DIVISION OF PRETRIAL DETENTION AND SERVICES;
- 7 (4) THE PATUXENT INSTITUTION;
- 8 (5) THE BOARD OF REVIEW FOR PATUXENT INSTITUTION;
- 9 (6) THE MARYLAND COMMISSION ON CORRECTIONAL STANDARDS;
- 10 (7) THE CORRECTIONAL TRAINING COMMISSION;
- 11 (8) THE POLICE TRAINING COMMISSION;
- 12 (9) THE MARYLAND PAROLE COMMISSION;
- 13 (10) THE CRIMINAL INJURIES COMPENSATION BOARD;
- 14 (11) THE EMERGENCY NUMBER SYSTEMS BOARD;
- 15 (12) THE SUNDRY CLAIMS BOARD;
- 16 (13) THE INMATE GRIEVANCE OFFICE; AND
- 17 (14) ANY OTHER UNIT THAT BY LAW IS DECLARED TO BE PART OF THE
- 18 DEPARTMENT.

19 REVISOR'S NOTE: This section is new language derived without substantive
20 change from former Art. 41, § 4-102(a).

21 In the introductory language and item (14) of this section, the references to
22 "unit[s]" are substituted for the former lists of types of units for brevity and
23 consistency throughout this article. See General Revisor's Note to this
24 article.

25 In items (1) and (2) of this section, the former references to the statutes
26 that create the indicated units are deleted as surplusage.

27 In items (11) and (13) of this section, the references to the "Emergency
28 Number Systems Board" and the "Inmate Grievance Office", respectfully,
29 are added because these units are also "in the Department". See Art. 41, §
30 18-103 and § 10-202 of this article, respectively.

1 Former Art. 41, § 4-102(b), which abolished the Traffic Safety Commission
2 in 1972 and referred to the status of its Executive Director, Paul E. Burke,
3 is deleted as obsolete.

4 Defined terms: "Department" § 1-101

5 "Division of Correction" § 1-101

6 "Division of Parole and Probation" § 1-101

7 TITLE 3. DIVISION OF CORRECTION.

8 SUBTITLE 1. DEFINITIONS.

9 3-101. DEFINITIONS.

10 (A) IN GENERAL.

11 IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

12 REVISOR'S NOTE: This subsection is new language derived without
13 substantive change from former Art. 27, § 689A(a)(1) and the introductory
14 language of § 681.

15 The former phrase "unless the context requires otherwise" is deleted as a
16 standard rule of statutory construction for defined terms.

17 Although former Art. 27, §§ 681 and 689A applied only to particular
18 subheadings, select definitions that appeared in those subheadings are
19 revised to apply throughout this title, governing the Division of Correction.

20 (B) COMMISSIONER.

21 "COMMISSIONER" MEANS THE COMMISSIONER OF CORRECTION.

22 REVISOR'S NOTE: This subsection is new language derived without
23 substantive change from former Art. 27, §§ 681(1), 689A(a)(2), and the
24 fourth sentence of 673(a).

25 (C) DIVISION.

26 "DIVISION" MEANS THE DIVISION OF CORRECTION.

27 REVISOR'S NOTE: This subsection is new language derived without
28 substantive change from former Art. 27, §§ 681(3) and 689A(a)(3).

29 The former reference to the "Department of Public Safety and Correctional
30 Services" is deleted in light of § 3-201 of this title, which specifies that the
31 Division is in the Department.

SUBTITLE 2. POWERS AND PERSONNEL.

1
2 3-201. DIVISION ESTABLISHED.

3 THERE IS A DIVISION OF CORRECTION IN THE DEPARTMENT.

4 REVISOR'S NOTE: This section is standard language derived without
5 substantive change from the first and second sentences of former Art. 41, §
6 4-105(a).

7 The former phrase "continued as the same Department of Correctional
8 Services hitherto existing" is deleted as obsolete. The Department of
9 Correctional Services was reorganized as the Division of Correction in
10 1970. See Ch. 401, Acts of 1970.

11 As to the third through fifth sentences of former Art. 41, § 4-105(a), see
12 General Revisor's Note to this subtitle.

13 Defined terms: "Department" § 1-101

14 "Division of Correction" § 1-101

15 3-202. COMMISSIONER OF CORRECTION -- APPOINTMENT; QUALIFICATIONS; TERM;
16 OATH; COMPENSATION.

17 (A) APPOINTMENT.

18 WITH APPROVAL OF THE GOVERNOR AND THE ADVICE AND CONSENT OF THE
19 SENATE, THE SECRETARY SHALL APPOINT THE COMMISSIONER OF CORRECTION.

20 (B) QUALIFICATIONS.

21 THE COMMISSIONER SHALL BE AN INDIVIDUAL WITH MATURITY AND
22 JUDGMENT WHO HAS:

23 (1) BROAD KNOWLEDGE OF CORRECTIONAL FACILITIES AND SYSTEMS;
24 AND

25 (2) KNOWLEDGE OF CORRECTIONAL PROCEDURES AND METHODS,
26 CORRECTIONAL THEORIES, INSTITUTIONAL OPERATIONS, AND THE PSYCHOLOGY OF
27 INMATES.

28 (C) TERM.

29 THE COMMISSIONER SERVES AT THE PLEASURE OF THE SECRETARY.

30 (D) OATH.

31 BEFORE TAKING OFFICE, THE APPOINTEE SHALL TAKE THE OATH REQUIRED
32 BY ARTICLE I, § 9 OF THE MARYLAND CONSTITUTION.

33 (E) COMPENSATION.

1 THE COMMISSIONER IS ENTITLED TO THE COMPENSATION PROVIDED IN THE
2 STATE BUDGET.

3 REVISOR'S NOTE: This section is new language derived without substantive
4 change from former Art. 27, § 673(b), (c), the first, second, and fifth
5 sentences of (a), and, as it related to the Commissioner's term, the third
6 sentence of (a).

7 In subsection (a) of this section, the former reference to the creation of
8 "[t]he office of Commissioner of Correction" is deleted as implicit in the
9 requirement that the Secretary appoint the Commissioner of Correction.

10 In subsection (b) of this section, the reference to an "individual" is
11 substituted for the former reference to a "person" because only a human
12 being, and not the other entities included in the defined term "person", can
13 be appointed Commissioner of Correction. See § 1-101 of this article for the
14 definition of "person".

15 In subsection (b)(1) of this section, the reference to "correctional facilities"
16 and systems is substituted for the former reference to "penal institutions"
17 and systems for consistency throughout this article. See General Revisor's
18 Note to this article.

19 In subsection (b)(2) of this section, the reference to "inmates" is substituted
20 for the former reference to "prisoners" for consistency throughout this
21 article. See General Revisor's Note to this article.

22 In subsection (c) of this section, the former reference to the Commissioner
23 having an "indefinite term" is deleted. A term that is not fixed is
24 necessarily indefinite. Furthermore, appointment for an "indefinite term"
25 is implicit in the reference to serving "at the pleasure of the Secretary".

26 In subsection (d) of this section, the reference to "Article I, § 9 of the
27 Maryland Constitution" is added to state expressly that which was only
28 implied by the former requirement that the Commissioner "take the
29 constitutional oath of office".

30 In subsection (e) of this section, the reference to the "State" budget is
31 added to state expressly that which was only implied by the former
32 reference to the "budget".

33 Also in subsection (e) of this section, the reference to the Commissioner's
34 "compensation" is substituted for the former reference to the
35 Commissioner's "salary" for consistency throughout this article. See
36 General Revisor's Note to this article.

37 Defined terms: "Commissioner" § 3-101

38 "Correctional facility" § 1-101

39 "Division" § 3-101

40 "Inmate" § 1-101

1 "Secretary" § 1-101

2 3-203. SAME -- GENERAL POWERS AND DUTIES.

3 (A) HEAD OF DIVISION.

4 SUBJECT TO THE AUTHORITY VESTED IN THE SECRETARY BY LAW, THE
5 COMMISSIONER IS IN CHARGE OF THE DIVISION AND ITS UNITS.

6 (B) RESPONSIBILITY TO GOVERNOR AND SECRETARY.

7 THE COMMISSIONER IS RESPONSIBLE TO THE SECRETARY AND THE GOVERNOR
8 FOR THE OPERATION AND CONDUCT OF THE DIVISION.

9 REVISOR'S NOTE: This section is new language derived without substantive
10 change from former Art. 27, § 674 and, as it related to the authority of the
11 Governor and the Secretary, the third sentence of § 673(a).

12 In subsection (a) of this section, the former reference to the Commissioner
13 being in "sole" charge of the Division is deleted as inconsistent with
14 subsection (b) of this section.

15 Also in subsection (a) of this section, the former reference to the
16 Commissioner being in "active" charge of the Division is deleted as implicit
17 in the statement that the Commissioner is "in charge of the Division".

18 Also in subsection (a) of this section, the reference to "units" in the Division
19 is substituted for the former reference to the Division's "several
20 institutions and agencies" for brevity. See General Revisor's Note to this
21 article.

22 In subsection (b) of this section, the former reference to the Commissioner
23 being responsible "solely" to the Secretary and the Governor is deleted as
24 unnecessary because neither this section nor any other provision in this
25 article suggests otherwise and for consistency with similar provisions in
26 other revised articles. See, e.g., BOP §§ 2-210, 3-211, 4-209, 5-210, 6-208,
27 7-208, 8-208, 9-208, 11-208, 12-210, 14-211, 15-211, 16-219, and
28 17-214, BR §§ 4-207, 8-214, and 11-214, FL § 10-107, FI §§ 2-105,
29 7-104(a), and 10-105, HG §§ 8-203(a)(1) and 10-203(a), LE § 2-102(b),
30 and SG § 7-203(c). Correspondingly, the former reference to the
31 Commissioner being subject "only" to the Secretary and Governor is
32 deleted.

33 Defined terms: "Commissioner" § 3-101

34 "Division" § 3-101

35 "Secretary" § 1-101

36 3-204. SAME -- POWER TO SUBPOENA.

37 (A) IN GENERAL.

1 THE COMMISSIONER MAY SUBPOENA, ADMINISTER AN OATH TO, AND EXAMINE
 2 UNDER OATH ANY PERSON IF THE COMMISSIONER CONSIDERS THAT IT IS
 3 NECESSARY FOR AN EFFECTIVE ADMINISTRATION OF THE COMMISSIONER'S DUTIES.

4 (B) FAILURE TO APPEAR OR TESTIFY.

5 A PERSON WHO FAILS TO APPEAR BEFORE THE COMMISSIONER OR REFUSES TO
 6 TESTIFY WHEN SUBPOENAED UNDER THIS SECTION IS GUILTY OF A MISDEMEANOR
 7 AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$50.

8 (C) FALSE SWEARING.

9 A PERSON WHO MAKES A FALSE STATEMENT UNDER OATH BEFORE THE
 10 COMMISSIONER IS GUILTY OF PERJURY AND ON CONVICTION IS SUBJECT TO THE
 11 PENALTY PROVIDED UNDER ARTICLE 27, § 439 OF THE CODE.

12 REVISOR'S NOTE: This section is new language derived without substantive
 13 change from former Art. 27, § 675.

14 In subsection (a) of this section, the reference to the Commissioner's
 15 authority to "subpoena" a witness is substituted for the former reference to
 16 the Commissioner's authority to "summon" a witness for clarity and
 17 consistency with terminology used elsewhere in the revised articles. Under
 18 Md. Rule 1-202(z), "summons" means a document that notifies a person of
 19 a court action. Under Md. Rule 1-202(y), "subpoena" means a document
 20 that requires "attendance at a particular time and place to take the action
 21 specified therein".

22 Also in subsection (a) of this section, the reference to "examin[ing] under
 23 oath any person" is added for clarity and consistency with similar
 24 provisions in other revised articles of the Code. *See, e.g.*, BR § 10-201(b),
 25 CL § 13-405(a), FL § 9-209(b), FI §§ 11-214(b)(2), 11-515(d)(3), and
 26 12-419(b)(2), HG § 19-718(c), IN §§ 2-203(a)(2), 8-319(c)(3), and
 27 8-461(b)(2), and SG § 9-1605(c)(3).

28 Also in subsection (a) of this section, the former reference to administering
 29 "affirmations" is deleted in light of Art. 1, § 9 of the Code, which provides
 30 that "[w]henever an oath is required by this Code an affirmation shall be
 31 sufficient, if made by a person conscientiously scrupulous of taking an
 32 oath".

33 Also in subsection (a) of this section, the former reference to the
 34 Commissioner's authority to subpoena and examine a person if the
 35 Commissioner considers that it is "wise" is deleted as surplusage in light of
 36 the reference to situations in which the Commissioner considers such
 37 action "necessary".

38 Defined terms: "Commissioner" § 3-101

39 "Person" § 1-101

1 3-205. SAME -- REGULATIONS.

2 (A) IN GENERAL.

3 THE COMMISSIONER MAY ADOPT REGULATIONS FOR THE OPERATION AND
4 MAINTENANCE OF THE UNITS IN THE DIVISION.

5 (B) REQUIRED REGULATIONS.

6 THE REGULATIONS SHALL PROVIDE FOR:

7 (1) THE DISCIPLINE AND CONDUCT OF INMATES, INCLUDING THE
8 CHARACTER OF PUNISHMENTS FOR VIOLATIONS OF DISCIPLINE; AND

9 (2) THE DUTIES, DISCIPLINE, AND CONDUCT OF OFFICERS AND OTHER
10 EMPLOYEES OF THE UNITS IN THE DIVISION.

11 (C) OPTIONAL REGULATIONS.

12 THE REGULATIONS MAY ALLOW INMATES OF MINIMUM SECURITY
13 INSTITUTIONS TO PROVIDE SERVICES VOLUNTARILY TO:

14 (1) GOVERNMENTAL UNITS; OR

15 (2) CHARITABLE ORGANIZATIONS AS DEFINED IN § 6-101 OF THE
16 BUSINESS REGULATION ARTICLE.

17 REVISOR'S NOTE: This section is new language derived without substantive
18 change from the first, second, and fourth sentences of former Art. 27, § 676
19 and, as it related to the Commissioner of Correction, § 692.

20 In subsections (a), (b), and (c) of this section, the former references to
21 "rules" are deleted in light of the term "regulations". See General Revisor's
22 Note to this article.

23 Also in subsections (a), (b), and (c) of this section, the references to "units"
24 are substituted for the former references to "institutions", "agencies", and
25 "installations of ... agencies" for consistency throughout this article. See
26 General Revisor's Note to this article.

27 In subsection (a) of this section, the former requirement that regulations
28 be "reasonable" is deleted in light of Title 10, Subtitle 1 of the State
29 Government Article, which requires that regulations be adopted according
30 to a procedure designed to ensure reasonableness. See, e.g., SG §
31 10-111.1(b).

32 Also in subsection (a) of this section, the former reference to
33 "promulgat[ing]" regulations is deleted as unnecessary in light of the
34 reference to "adopt[ing]" regulations. See General Revisor's Note to this
35 article.

1 In subsection (b)(1) of this section, the former reference to violations of
2 discipline "in the institutions of the [Division]" is deleted as implicit in the
3 reference to "violations of discipline".

4 In subsection (b)(2) of this section, the reference to officers and "other"
5 employees is added to state expressly that which was only implied in the
6 former law, i.e., officers are a type of "employee".

7 The third sentence of former Art. 27, § 676, which authorized the
8 Commissioner to change regulations and required regulations to be "not ...
9 inconsistent" with law, is deleted. Section 10-113 of the State Government
10 Article establishes specific procedures for changing a regulation. Section
11 10-106 of the State Government Article requires that a regulation contain
12 "a citation of the statutory authority for the regulation". Section 10-107(b)
13 of the State Government Article requires that the Attorney General
14 approve the legality of a regulation before the regulation may take effect.
15 Taken together, the clear implication is that a regulation "may not be
16 inconsistent with law".

17 Defined terms: "Commissioner" § 3-101

18 "Division" § 3-101

19 "Inmate" § 1-101

20 3-206. SAME -- ANNUAL ACCOUNTINGS.

21 (A) IN GENERAL.

22 ON OR BEFORE JULY 30 OF EACH YEAR, THE COMMISSIONER SHALL SUBMIT TO
23 THE SECRETARY AN ACCURATE, DETAILED STATEMENT OF ALL RECEIPTS AND
24 DISBURSEMENTS OF THE DIVISION DURING THE YEAR THAT ENDED ON THE
25 PRECEDING JUNE 30.

26 (B) VERIFICATION BY COMMISSIONER.

27 THE COMMISSIONER SHALL VERIFY THE STATEMENT SUBMITTED UNDER
28 SUBSECTION (A) OF THIS SECTION.

29 (C) SUBMISSION TO COMPTROLLER.

30 THE SECRETARY SHALL SUBMIT THE STATEMENT RECEIVED UNDER
31 SUBSECTION (A) OF THIS SECTION TO THE COMPTROLLER.

32 REVISOR'S NOTE: This section is new language derived without substantive
33 change from former Art. 27, § 677 and, as it required the statement to be
34 verified under oath, § 678(b).

35 In subsection (b) of this section, the requirement that the statement be
36 "verif[ied]" by the Commissioner is substituted for the former requirement
37 that the statement be "duly sworn to" by the Commissioner for consistency
38 throughout this article and with similar provisions in other revised articles

1 of the Code. See General Revisor's Note to this article.

2 Defined terms: "Commissioner" § 3-101

3 "Comptroller" § 1-101

4 "Division" § 3-101

5 "Secretary" § 1-101

6 3-207. SAME -- ANNUAL REPORTS.

7 (A) IN GENERAL.

8 ON OR BEFORE OCTOBER 31 OF EACH YEAR, THE COMMISSIONER SHALL
9 SUBMIT AN ANNUAL REPORT TO THE SECRETARY AND THE GOVERNOR THAT STATES,
10 FOR EACH CORRECTIONAL FACILITY IN THE DIVISION:

11 (1) ITS EXPENSES, RECEIPTS, DISBURSEMENTS, CONDITION, AND
12 PROGRESS;

13 (2) THE NUMBER OF INMATES AND EACH INMATE'S AGE, SEX, RACE,
14 PLACE OF BIRTH AND CONVICTION, CRIME, AND TERM OF CONFINEMENT;

15 (3) THE NUMBER OF INMATES WHO ESCAPE, ARE PARDONED, OR
16 DISCHARGED; AND

17 (4) ANY REMARKS AND SUGGESTIONS THE COMMISSIONER CONSIDERS
18 NECESSARY TO ADVANCE THE INTERESTS OF THE CORRECTIONAL FACILITY.

19 (B) ACCOUNTINGS.

20 THE COMMISSIONER SHALL SUBMIT WITH THE REPORT REQUIRED BY
21 SUBSECTION (A) OF THIS SECTION A STATEMENT SIMILAR TO THE STATEMENT THAT
22 IS REQUIRED TO BE SUBMITTED UNDER § 3-206 OF THIS SUBTITLE.

23 (C) VERIFICATION BY COMMISSIONER.

24 THE COMMISSIONER SHALL VERIFY THE REPORT AND STATEMENT REQUIRED
25 BY THIS SECTION.

26 (D) SUBMISSION TO GENERAL ASSEMBLY.

27 SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GOVERNOR
28 SHALL SUBMIT TO THE GENERAL ASSEMBLY THE REPORT AND STATEMENT
29 REQUIRED UNDER THIS SECTION AND ANY RECOMMENDATIONS THAT THE
30 GOVERNOR CONSIDERS EXPEDIENT.

31 REVISOR'S NOTE: This section is new language derived without substantive
32 change from former Art. 27, § 678 as it related to the Commissioner of
33 Correction.

34 In the introductory language of subsection (a) of this section, the reference
35 to "each correctional facility in the Division" is substituted for the former

1 reference to "said institutions" for clarity.

2 In subsection (a)(2) of this section, the word "race" is substituted for the
3 former word "color" for clarity and consistency with terminology used
4 elsewhere in the revised articles.

5 Also in subsection (a)(2) of this section, the reference to "crime" is
6 substituted for the former reference to "offense" for accuracy.

7 In subsection (c) of this section, the requirement that the report and
8 statement being "verif[ied]" is substituted for the former requirement that
9 the report and statement be "duly sworn to" for consistency throughout
10 this article and with similar provisions in other revised articles of the
11 Code. See General Revisor's Note to this article.

12 The part of former Art. 27, § 678 that relates to the Patuxent Institution is
13 revised in § 4-203(d) of this article.

14 Defined terms: "Commissioner" § 3-101

15 "Correctional facility" § 1-101

16 "Division" § 3-101

17 "Inmate" § 1-101

18 "Secretary" § 1-101

19 3-208. DEPUTY COMMISSIONER -- APPOINTMENT.

20 (A) APPOINTMENT.

21 THE COMMISSIONER SHALL APPOINT A DEPUTY COMMISSIONER.

22 (B) STATUS.

23 THE DEPUTY COMMISSIONER IS IN THE EXECUTIVE SERVICE OF THE STATE
24 PERSONNEL MANAGEMENT SYSTEM AND SERVES AT THE PLEASURE OF THE
25 COMMISSIONER.

26 (C) QUALIFICATIONS.

27 THE DEPUTY COMMISSIONER SHALL HAVE EXECUTIVE EXPERIENCE IN AND
28 ADEQUATE KNOWLEDGE OF:

29 (1) CORRECTIONAL FACILITIES AND SYSTEMS; AND

30 (2) INMATE PROGRAMS.

31 REVISOR'S NOTE: This section is new language derived without substantive
32 change from former Art. 27, § 679(a), (b), and (c).

33 Subsection (a) of this section is revised in standard language that is used to
34 create the office of a deputy. See, e.g., AG § 2-102, BR § 2-103, EN § 1-403,
35 FI § 2-103, SF §§ 3-203 and 4-203, and TR § 2-102(c).

1 In subsection (a) of this section, the former reference to the Deputy
2 Commissioner's appointment "for an indefinite term" is deleted as
3 surplusage. A term that is not fixed is necessarily indefinite. Furthermore,
4 appointment "for an indefinite term" is implicit in the reference to serving
5 "at the pleasure of the Commissioner".

6 Also in subsection (a) of this section, the former phrase "[t]he office of
7 deputy commissioner of correction is created" is deleted as implicit in the
8 requirement that the Commissioner "appoint a Deputy Commissioner".

9 In subsection (c)(1) of this section, the reference to "correctional facilities"
10 is substituted for the former reference to "penal institutions" for
11 consistency throughout this article. See General Revisor's Note to this
12 article. Correspondingly, the general reference to "inmate" programs is
13 substituted for the former reference to "prison-use and institution-use"
14 programs for consistency throughout this article.

15 Defined terms: "Commissioner" § 3-101

16 "Correctional facility" § 1-101

17 "Inmate" § 1-101

18 3-209. SAME -- POWERS AND DUTIES.

19 (A) IN GENERAL.

20 SUBJECT TO THE POLICIES ESTABLISHED BY THE COMMISSIONER, THE DEPUTY
21 COMMISSIONER IS GENERALLY IN CHARGE OF ADMINISTRATIVE PROCEDURES IN
22 THE DIVISION.

23 (B) ACTING COMMISSIONER.

24 IN THE ABSENCE OF THE COMMISSIONER, THE DEPUTY COMMISSIONER SHALL
25 BE ACTING COMMISSIONER.

26 REVISOR'S NOTE: This section is new language derived without substantive
27 change from former Art. 27, § 679(d).

28 In subsections (a) and (b) of this section, the specific references to the
29 Deputy "Commissioner" are substituted for the former references to the
30 "deputy" for clarity and consistency with § 3-208 of this subtitle, which
31 requires the Commissioner to appoint a "Deputy Commissioner".

32 In subsection (a) of this section, the former reference to policy being
33 established "from time to time" is deleted as surplusage.

34 Also in subsection (a) of this section, the former reference to the policies "of
35 the Division" is deleted as implicit in the reference to the policies
36 "established by the Commissioner".

1 Defined terms: "Commissioner" § 3-101

2 "Division" § 3-101

3 3-210. WARDENS AND ADMINISTRATORS -- APPOINTMENT.

4 (A) IN GENERAL.

5 THE COMMISSIONER SHALL APPOINT A WARDEN OR ADMINISTRATOR FOR
6 EACH CORRECTIONAL FACILITY IN THE DIVISION.

7 (B) QUALIFICATIONS.

8 A WARDEN OR ADMINISTRATOR SHALL HAVE EXECUTIVE EXPERIENCE AND
9 ADEQUATE KNOWLEDGE OF CORRECTIONAL FACILITIES AND SYSTEMS.

10 (C) TERM.

11 A WARDEN OR ADMINISTRATOR SERVES AT THE PLEASURE OF THE
12 COMMISSIONER.

13 REVISOR'S NOTE: This section is new language derived without substantive
14 change from former Art. 27, § 682(a).

15 In subsections (a), (b), and (c) of this section, the references to an
16 "administrator" are substituted for the former references to a
17 "superintendent" to reflect the current nomenclature in the Division.

18 In subsections (a) and (b) of this section, the references to "correctional
19 facility" and "correctional facilities" are substituted for the former
20 references to an "institution" and "penal and/or reformatory institutions",
21 respectively, for consistency throughout this article. See General Revisor's
22 Note to this article.

23 In subsection (a) of this section, the reference to the "Division" is
24 substituted for the former reference to the "Department" to conform to §
25 3-201 of this subtitle, which establishes a "Division". The former
26 "Department of Correctional Services" was reorganized as the "Division of
27 Correction" in 1970. See General Revisor's Note to this subtitle.

28 Also in subsection (a) of this section, the former reference to the
29 appointment of a warden or administrator "for an indefinite term" is
30 deleted as surplusage. A term that is not fixed is necessarily indefinite.
31 Furthermore, appointment "for an indefinite term" is implicit in the
32 reference to serving "at the pleasure of the Commissioner".

33 Defined terms: "Commissioner" § 3-101

34 "Correctional facility" § 1-101

35 "Division" § 3-101

1 3-211. SAME -- POWERS AND DUTIES.

2 (A) POWERS.

3 SUBJECT TO POLICIES ESTABLISHED BY THE COMMISSIONER, EACH WARDEN
4 OR ADMINISTRATOR IS IN DIRECT CHARGE OF THE CORRECTIONAL FACILITY TO
5 WHICH THE WARDEN OR ADMINISTRATOR IS APPOINTED.

6 (B) DUTIES.

7 THE WARDEN OR ADMINISTRATOR SHALL:

8 (1) SUPERVISE THE GOVERNMENT, DISCIPLINE, AND POLICY OF THE
9 CORRECTIONAL FACILITY;

10 (2) DIRECT THE ADMINISTERING OF PUNISHMENT PRESCRIBED BY THE
11 COMMISSIONER UNDER § 3-205(B)(1) OF THIS SUBTITLE; AND

12 (3) ENFORCE THE REGULATIONS AND DIRECTIVES OF THE DIVISION.

13 REVISOR'S NOTE: This section is new language derived without substantive
14 change from former Art. 27, § 682(b) and, as it related to the duty of the
15 warden and administrator, to administer punishment, § 692.

16 In subsections (a) and (b) of this section, the references to an
17 "administrator" are substituted for the former references to a
18 "superintendent" to reflect current nomenclature in the Division.
19 Similarly, the references to a "correctional facility" are substituted for the
20 former references to an "institution". See General Revisor's Note to this
21 article.

22 In subsection (a) of this section, the former reference to "departmental"
23 policies is deleted as obsolete. The former "Department of Correctional
24 Services" was reorganized as the "Division of Correction" in 1970. See
25 General Revisor's Note to this subtitle. Correspondingly, in subsection
26 (b)(3) of this section, the reference to the "Division" is substituted for the
27 former reference to "Department".

28 Also in subsection (a) of this section, the former reference to a warden or
29 administrator being in "sole" charge of a facility is deleted as inconsistent
30 with other provisions of this subtitle. See, e.g., § 3-203(a) of this subtitle,
31 which specifies that the Commissioner is "in charge" of the units in the
32 Division.

33 Also in subsection (a) of this section, the former reference to policy being
34 established "from time to time" is deleted as surplusage.

35 Also in subsection (a) of this section, the reference to "the correctional
36 facility to which ... appointed" is substituted for the former reference to
37 "his institution" for clarity.

1 In subsection (b)(3) of this section, the reference to "directives" of the
2 Division is substituted for the former reference to "orders" for consistency
3 with current terminology used by the Division. The Division currently
4 issues "Division of Correction Directives", not "orders". The use of the term
5 "directive" is also consistent with the fourth sentence of former Art. 41, §
6 4-105(a), which referred to "directives". See General Revisor's Note to this
7 subtitle.

8 Defined terms: "Commissioner" § 3-101

9 "Correctional facility" § 1-101

10 "Division" § 3-101

11 3-212. SAME -- ANNUAL REPORTS.

12 (A) IN GENERAL.

13 ON OR BEFORE SEPTEMBER 30 OF EACH YEAR, EACH WARDEN SHALL SUBMIT
14 TO THE COMMISSIONER A REPORT AND STATEMENT ON THE AFFAIRS OF THE
15 CORRECTIONAL FACILITY TO WHICH THE WARDEN IS APPOINTED.

16 (B) CONTENTS.

17 (1) THE REPORT SHALL INCLUDE THE INFORMATION REQUIRED UNDER
18 § 3-207(A) OF THIS SUBTITLE AS IT RELATES TO THE CORRECTIONAL FACILITY.

19 (2) THE STATEMENT SHALL INCLUDE THE INFORMATION REQUIRED
20 UNDER § 3-207(B) OF THIS SUBTITLE AS IT RELATES TO THE CORRECTIONAL
21 FACILITY.

22 (C) VERIFICATION.

23 THE REPORT AND STATEMENT REQUIRED BY THIS SECTION SHALL BE
24 VERIFIED BY THE WARDEN OF THE CORRECTIONAL FACILITY THAT IS THE SUBJECT
25 OF THE REPORT.

26 REVISOR'S NOTE: This section is new language derived without substantive
27 change from former Art. 27, § 683.

28 In subsections (a), (b), and (c) of this section, the references to a
29 "correctional facility" are substituted for the former references to an
30 "institution" to reflect current nomenclature in the Division. See General
31 Revisor's Note to this article.

32 In subsection (a) of this section, the reference to a report on the affairs of
33 the "facility to which the warden is appointed" is substituted for the former
34 reference to a report on the warden's "respective" facility for clarity.

35 Also in subsection (a) of this section, the former references to a
36 "superintendent" are deleted as obsolete. Currently, there are no
37 superintendent positions in the Division of Correction. This deletion also

1 reflects current practice, i.e., only wardens, and not facility administrators,
2 submit the report and statement required by this section.

3 In subsection (c) of this section, the requirement that the report and
4 statement being "verified" by the warden is substituted for the former
5 requirement that the report and statement be "duly sworn to" by the
6 warden for consistency throughout this article and with similar provisions
7 in other revised articles of the Code. See General Revisor's Note to this
8 article.

9 Also in subsection (c) of this section, the former reference to the "clerk" of
10 a correctional facility is deleted as obsolete. There is currently no such
11 position in any State correctional facility.

12 Defined terms: "Commissioner" § 3-101

13 "Correctional facility" § 1-101

14 3-213. ASSISTANT WARDENS.

15 (A) IN GENERAL.

16 THE COMMISSIONER MAY APPOINT ONE OR MORE ASSISTANT WARDENS FOR A
17 CORRECTIONAL FACILITY.

18 (B) QUALIFICATIONS.

19 AN ASSISTANT WARDEN SHALL HAVE THE SAME QUALIFICATIONS AS A
20 WARDEN.

21 (C) TERM.

22 AN ASSISTANT WARDEN SERVES AT THE PLEASURE OF THE COMMISSIONER.

23 (D) DUTIES.

24 AN ASSISTANT WARDEN SHALL PERFORM THE DUTIES OF THE WARDEN IN THE
25 ABSENCE OF THE WARDEN.

26 REVISOR'S NOTE: This section is new language derived without substantive
27 change from former Art. 27, § 682(c).

28 In subsections (a), (b), and (c) of this section, the former references to
29 "assistant superintendents" are deleted as obsolete. Correspondingly, in
30 subsections (b) and (d) of this section, the former references to a
31 "superintendent" are deleted. Currently, there are no superintendent or
32 assistant superintendent positions in the Division of Correction.

33 In subsection (a) of this section, the former reference to an appointment
34 being "deemed necessary" is deleted as implicit in the discretionary
35 authority that the Commissioner has to appoint assistant wardens.

1 Also in subsection (a) of this section, the reference to "one or more"
2 assistant wardens is added to state expressly that which was only implied
3 in the former law, i.e., the Commissioner may appoint more than one
4 assistant warden in a correctional facility.

5 In subsection (c) of this section, the former reference to "indefinite terms"
6 is deleted as surplusage. A term that is not fixed is necessarily indefinite.
7 Furthermore, appointment for "indefinite terms" is implicit in the
8 reference to serving "at the pleasure of the Commissioner".

9 Defined terms: "Commissioner" § 3-101

10 "Correctional facility" § 1-101

11 3-214. ESCAPEES.

12 (A) WARRANTS.

13 (1) THE WARDEN OF A CORRECTIONAL FACILITY OR DESIGNEE OF THE
14 WARDEN MAY ISSUE A RETAKE WARRANT FOR THE APPREHENSION AND RETURN OF
15 AN ESCAPEE.

16 (2) THE WARDEN SHALL SUBMIT A COPY OF EACH RETAKE WARRANT TO
17 THE STATE'S ATTORNEY FOR THE COUNTY IN WHICH THE CORRECTIONAL FACILITY
18 FROM WHICH THE ESCAPE WAS MADE IS LOCATED.

19 (B) DUTIES OF LAW ENFORCEMENT OFFICERS.

20 (1) A SHERIFF OR A POLICE OFFICER WHO IS AUTHORIZED TO SERVE
21 CRIMINAL PROCESS AND WHO RECEIVES A RETAKE WARRANT ISSUED UNDER
22 SUBSECTION (A) OF THIS SECTION SHALL EXECUTE THE WARRANT IN ACCORDANCE
23 WITH THE DIRECTIONS IN THE WARRANT.

24 (2) A SHERIFF OR POLICE OFFICER WHO MAKES AN ARREST UNDER THIS
25 SUBSECTION SHALL PROMPTLY NOTIFY THE DIVISION OF THE ARREST.

26 REVISOR'S NOTE: This section is new language derived without substantive
27 change from former Art. 27, § 682(d).

28 In subsection (a)(1) of this section, the former reference to a
29 "superintendent" is deleted as obsolete. Currently, there are no
30 superintendent positions in the Division of Correction.

31 In subsection (a)(2) of this section, the reference to the "warden" is added
32 to state expressly that which was only implied in the former law, i.e., the
33 warden is the individual who has the duty to submit a copy of a retake
34 warrant to the State's Attorney.

35 Also in subsection (a)(2) of this section, the requirement that a copy of a
36 warrant be "submit[ted]" to the State's Attorney is substituted for the
37 former requirement that a copy of the warrant be "forwarded" to the

1 State's Attorney for consistency with §§ 3-207 and 3-212 of this subtitle
2 and throughout this article.

3 Also in subsection (a)(2) of this section, the defined term "correctional
4 facility" is substituted for the former reference to an "institution" for
5 consistency throughout this article. See General Revisor's Note to this
6 article.

7 Defined terms: "Correctional facility" § 1-101

8 "County" § 1-101

9 "Division" § 3-101

10 3-215. OFFICERS AND EMPLOYEES.

11 (A) IN GENERAL.

12 IN ACCORDANCE WITH THE STATE BUDGET, THE DIVISION MAY APPOINT
13 OFFICERS AND OTHER EMPLOYEES AS NECESSARY TO OPERATE THE DIVISION AND
14 ITS UNITS EFFICIENTLY AND EFFECTIVELY.

15 (B) APPOINTMENT AND STATUS.

16 (1) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, ALL OFFICERS
17 AND OTHER EMPLOYEES OF THE DIVISION SHALL BE APPOINTED AND REMOVED IN
18 ACCORDANCE WITH THE PROVISIONS OF THE STATE PERSONNEL AND PENSIONS
19 ARTICLE.

20 (2) THE FOLLOWING POSITIONS ARE IN THE EXECUTIVE SERVICE, THE
21 MANAGEMENT SERVICE, OR ARE SPECIAL APPOINTMENTS OF THE SKILLED SERVICE
22 OR THE PROFESSIONAL SERVICE IN THE STATE PERSONNEL MANAGEMENT SYSTEM:

23 (I) COMMISSIONER;

24 (II) DEPUTY COMMISSIONER;

25 (III) ASSISTANT COMMISSIONER;

26 (IV) INDUSTRIES GENERAL MANAGER;

27 (V) CHAPLAIN;

28 (VI) WARDEN;

29 (VII) FACILITY ADMINISTRATOR; AND

30 (VIII) ASSISTANT WARDEN.

31 (3) (I) THE WARDEN OF A CORRECTIONAL FACILITY IS THE
32 APPOINTING OFFICER FOR THE OFFICERS AND OTHER EMPLOYEES OF THAT
33 FACILITY.

1 (II) THE COMMISSIONER IS THE APPOINTING OFFICER FOR THE
2 OTHER OFFICERS AND EMPLOYEES IN THE DIVISION.

3 (C) WARDEN'S DWELLING.

4 THE DIVISION MAY PROVIDE A DWELLING FOR A WARDEN.

5 (D) COMPENSATION -- WARDEN.

6 A WARDEN MAY NOT RECEIVE ANY COMPENSATION OR PERQUISITE OTHER
7 THAN:

8 (1) THE COMPENSATION AND REIMBURSEMENT PROVIDED UNDER
9 SUBSECTION (E) OF THIS SECTION; AND

10 (2) IF PROVIDED UNDER SUBSECTION (C) OF THIS SECTION, A
11 DWELLING.

12 (E) SAME -- OFFICERS AND EMPLOYEES.

13 (1) OFFICERS AND OTHER EMPLOYEES ARE ENTITLED TO:

14 (I) COMPENSATION AS PROVIDED IN THE STATE BUDGET; AND

15 (II) REIMBURSEMENT FOR EXPENSES IN ACCORDANCE WITH THE
16 STANDARD STATE TRAVEL REGULATIONS.

17 (2) OFFICERS AND OTHER EMPLOYEES WORKING 40 HOURS OR MORE
18 PER WEEK IN A CORRECTIONAL FACILITY ARE ENTITLED TO ONE FREE MEAL PER
19 SHIFT AS PROVIDED IN THE STATE BUDGET.

20 REVISOR'S NOTE: This section is new language derived without substantive
21 change from former Art. 27, §§ 684 and 685.

22 In subsections (a) and (b)(1) of this section, the references to officers and
23 "other" employees are added to state expressly that which was only implied
24 in the former law, i.e., officers are a type of "employee".

25 In subsections (a), (b)(1) and (3)(ii), and (c) of this section, the references to
26 the "Division" are substituted for the former, obsolete references to the
27 "Department". See General Revisor's Note to this subtitle.

28 In subsections (a) and (e)(1) of this section, the former references to
29 appointments being made and compensation being budgeted "from time to
30 time" are deleted as surplusage.

31 In subsection (a) of this section, the reference to the "units" in the Division
32 is substituted for the former reference to its "institutions and agencies" for
33 brevity and consistency throughout this article. See General Revisor's Note
34 to this article.

- 1 In subsection (b)(1) of this section, the introductory clause is added for
2 clarity. See, e.g., § 3-208 of this subtitle, which specifies how the Deputy
3 Commissioner is appointed.
- 4 In subsections (b)(2) and (3), (c), and (d) of this section, the former
5 references to a "[s]uperintendent" are deleted as obsolete. Currently, there
6 are no superintendent positions in the Division of Correction.
- 7 In subsection (b)(2) of this section, the former reference to an "[a]ssistant
8 superintendent" is deleted as obsolete. Currently, there are no assistant
9 superintendent positions in the Division of Correction.
- 10 In subsection (b)(2)(vii) of this section, the reference to a "facility
11 administrator" is added to reflect current nomenclature within the
12 Division of Correction and for consistency with § 3-210 of this subtitle,
13 which requires the appointment of a warden or administrator for each
14 correctional facility within the Division of Correction.
- 15 In subsections (b)(3)(i) and (e)(2) of this section, the defined term
16 "correctional facility" is substituted for the former reference to an
17 "institution" for consistency throughout this article. See General Revisor's
18 Note to this article.
- 19 In subsection (b)(3)(i) of this section, the reference to "officers and other"
20 employees is added for consistency with subsections (a) and (b)(1) of this
21 section. Correspondingly, in subsection (b)(3)(ii) of this section, the
22 reference to "other officers and" employees is added.
- 23 In subsection (c) of this section, the former references to the warden "of any
24 institution" are deleted as implicit in the reference to "a warden".
- 25 In subsection (e)(1)(ii) of this section, the reference to "reimbursement for
26 expenses in accordance with the Standard State Travel Regulations" is
27 substituted for the former reference to "remuneration for traveling and
28 other expenses incident to their duties" for clarity. As to the applicability of
29 the Standard State Travel Regulations, see SF § 10-203 and COMAR
30 23.02.01.01 through .12.
- 31 Defined terms: "Commissioner" § 3-101
- 32 "Correctional facility" § 1-101
- 33 "Division" § 3-101

34 3-216. CORRECTIONAL OFFICERS -- POWER OF ARREST.

35 (A) DESIGNATION BY COMMISSIONER.

36 THE COMMISSIONER SHALL DESIGNATE CORRECTIONAL OFFICERS EMPLOYED
37 IN EACH CORRECTIONAL FACILITY IN THE DIVISION WHO HAVE THE POWER TO
38 MAKE ARRESTS UNDER ARTICLE 27, § 594B OF THE CODE.

1 (B) QUALIFICATIONS.

2 A CORRECTIONAL OFFICER WHO IS AUTHORIZED TO MAKE ARRESTS UNDER
3 ARTICLE 27, § 594B OF THE CODE SHALL:

4 (1) MEET THE MINIMUM QUALIFICATIONS REQUIRED BY THE
5 MARYLAND POLICE TRAINING COMMISSION; AND

6 (2) COMPLETE SATISFACTORILY THE TRAINING PRESCRIBED BY THE
7 MARYLAND POLICE TRAINING COMMISSION.

8 REVISOR'S NOTE: This section is new language derived without substantive
9 change from former Art. 27, § 684A.

10 In subsection (a) of this section, the reference to "correctional facility in"
11 the Division is substituted for the former reference to a "facility under the
12 jurisdiction of" the Division for consistency throughout this article. See
13 General Revisor's Note to this article.

14 Defined terms: "Commissioner" § 3-101

15 "Correctional facility" § 1-101

16 "Division" § 3-101

17 3-217. PERFORMANCE BONDS.

18 (A) WHEN REQUIRED.

19 (1) THE GOVERNOR MAY REQUIRE THE COMMISSIONER TO EXECUTE A
20 SURETY BOND IN AN AMOUNT THAT THE GOVERNOR ESTABLISHES.

21 (2) THE COMMISSIONER MAY REQUIRE ANY OFFICER OR OTHER
22 EMPLOYEE OF THE DIVISION TO EXECUTE A SURETY BOND IN THE AMOUNT THAT
23 THE COMMISSIONER, WITH THE APPROVAL OF THE COMPTROLLER, ESTABLISHES.

24 (3) THE BOND SHALL BE CONDITIONED ON THE INDIVIDUAL
25 FAITHFULLY PERFORMING THE DUTIES OF OFFICE AND ACCOUNTING FOR ALL
26 FUNDS OFFICIALLY RECEIVED.

27 (B) ISSUANCE.

28 (1) THE SURETY BOND FOR THE COMMISSIONER SHALL BE ISSUED BY A
29 CORPORATE SURETY APPROVED BY THE GOVERNOR.

30 (2) THE SURETY BOND FOR ANY OFFICER OR OTHER EMPLOYEE OF THE
31 DIVISION SHALL BE ISSUED BY A CORPORATE SURETY APPROVED BY THE
32 COMMISSIONER AND THE COMPTROLLER.

33 (C) PREMIUM.

34 THE PREMIUM FOR A SURETY BOND ISSUED UNDER THIS SECTION SHALL BE
35 PAID BY THE DIVISION.

1 (D) FAILURE TO COMPLY.

2 AN INDIVIDUAL WHO FAILS TO PROVIDE OR MAINTAIN A SURETY BOND AS
3 REQUIRED BY THIS SECTION:

4 (1) MAY NOT ASSUME THE DUTIES OF THE INDIVIDUAL'S POSITION; AND

5 (2) AFTER 30 DAYS, FORFEITS THE INDIVIDUAL'S OFFICE OR
6 EMPLOYMENT.

7 REVISOR'S NOTE: This section is new language derived without substantive
8 change from former Art. 27, § 686.

9 In subsections (a)(2) and (b)(2) of this section, the references to the
10 "Division" are substituted for the former, obsolete references to the
11 "Department". See General Revisor's Note to this subtitle.

12 Also in subsections (a)(2) and (b)(2) of this section, the references to officers
13 or "other" employees are added to state expressly that which was only
14 implied in the former law, i.e., officers are a type of "employee".

15 In subsection (a)(2) of this section, the former reference to a "subordinate"
16 officer or employee is deleted as implicit in the reference to "officer or ...
17 employee". Each "officer" and "employee" in the Division is subordinate to
18 the Commissioner.

19 Subsection (a)(3) of this section is revised for consistency with similar
20 provisions in other revised articles of the Code. See, e.g., BOP §§
21 13-603(a)(1), 17-329(d)(2), and 19-503(a)(1), CL § 16-206(b)(3), ED §
22 11-203(a), EN §§ 5-606, 15-507(b)(1), and 15-612(b), ET § 13-803(a), FL
23 §§ 5-1014(d)(2), 5-1025(b)(1), 5-1042(b), 11-112(3), and 13-107(a)(2), IN §
24 8-412(a)(4), RP § 8-310, and TR § 8-747.

25 Defined terms: "Commissioner" § 3-101

26 "Comptroller" § 1-101

27 "Division" § 3-101

28 3-218. GIFTS FROM INMATES.

29 (A) PROHIBITED.

30 AN OFFICER OR OTHER EMPLOYEE OF THE DIVISION MAY NOT:

31 (1) ACCEPT A REWARD OR GIFT, OR A PROMISE OF A REWARD OR GIFT,
32 FROM AN INMATE IN A CORRECTIONAL FACILITY IN THE DIVISION OR FROM A
33 PERSON ON BEHALF OF AN INMATE;

34 (2) RECEIVE A DEVISE OR BEQUEST, OR A PROMISE OF A DEVISE OR
35 BEQUEST, FROM AN INMATE IN A CORRECTIONAL FACILITY IN THE DIVISION OR
36 FROM A PERSON ON BEHALF OF AN INMATE; OR

1 (3) ENTER INTO A CONTRACT WITH AN INMATE IN A CORRECTIONAL
2 FACILITY IN THE DIVISION OR WITH A PERSON ON BEHALF OF AN INMATE.

3 (B) VOID.

4 A GIFT, REWARD, BEQUEST, DEVISE, PROMISE, OR CONTRACT ACCEPTED,
5 RECEIVED, OR ENTERED INTO IN VIOLATION OF THIS SECTION IS VOID.

6 (C) PENALTY.

7 A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND
8 ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$500.

9 REVISOR'S NOTE: This section is new language derived without substantive
10 change from former Art. 27, § 688.

11 In the introductory language of subsection (a) of this section, the reference
12 to the "Division" is substituted for the former, obsolete reference to the
13 "Department". See General Revisor's Note to this subtitle.

14 Also in the introductory language of subsection (a) of this section, the
15 reference to an officer or "other" employee is added to state expressly that
16 which was only implied in the former law, i.e., officers are a type of
17 "employee".

18 In subsection (a)(1), (2), and (3) of this section, the references to a
19 correctional facility "in the Division" are added based on the former
20 reference to "said" facilities for clarity.

21 Also in subsection (a)(1), (2), and (3) of this section, the defined term
22 "correctional facility" is substituted for the former reference to
23 "institutions" for consistency throughout this article. See General Revisor's
24 Note to this article.

25 In subsection (c) of this section, the reference to being "guilty of a
26 misdemeanor" is added to state expressly that which was only implied in
27 the former law. In this State, any crime that was not a felony at common
28 law and has not been declared a felony by statute, is considered to be a
29 misdemeanor. See State v. Canova, 278 Md. 483, 490 (1976); Bowser v.
30 State, 136 Md. 342, 345 (1920); Williams v. State, 4 Md. App. 342, 347
31 (1968); and Dutton v. State, 123 Md. 373, 378 (1914).

32 Defined terms: "Correctional facility" § 1-101

33 "Division" § 3-101

34 "Inmate" § 1-101

35 "Person" § 1-101

36 3-219. PROPERTY ACQUISITION AND DISPOSAL.

37 (A) ACQUISITION.

1 THE DIVISION MAY ACQUIRE PROPERTY BY CONTRACT, PURCHASE, OR OTHER
2 MEANS AS REQUIRED FOR THE DIVISION'S USE AND FOR THE USE OF ITS UNITS.

3 (B) DISPOSAL.

4 THE DIVISION MAY SELL, DISPOSE OF, OR OTHERWISE CONVEY ANY PROPERTY
5 AS APPROPRIATE TO THE NEEDS OF THE DIVISION AND ITS UNITS.

6 (C) TITLE TO PREVIOUS PROPERTY.

7 THE DIVISION HOLDS TITLE TO AND HAS POSSESSION OF ALL PROPERTY
8 PREVIOUSLY ACQUIRED BY THE FORMER DEPARTMENT OF CORRECTION OR ANY
9 UNIT OF THAT DEPARTMENT.

10 (D) TRUSTEE OF THE STATE.

11 THE DIVISION HOLDS TITLE TO AND HAS POSSESSION OF PROPERTY AS A
12 TRUSTEE OF THE STATE.

13 (E) AUTHORITY OF BOARD OF PUBLIC WORKS.

14 THE DIVISION'S CUSTODY, USE, ACQUISITION, AND CONVEYANCE OF PROPERTY
15 ARE SUBJECT GENERALLY TO THE POWERS AND FUNCTIONS OF THE BOARD OF
16 PUBLIC WORKS.

17 REVISOR'S NOTE: This section is new language derived without substantive
18 change from former Art. 27, § 668.

19 In subsections (a), (b), (c), (d), and (e) of this section, the references to the
20 "Division" are substituted for the former, obsolete references to the
21 "Department". See General Revisor's Note to this subtitle.

22 In subsection (c) of this section, the former reference to "real, personal, and
23 mixed" property is deleted as implicit in the reference to "all property".

24 Also in subsection (c) of this section, the former reference to "existing"
25 property is deleted as implicit in the reference to "property".

26 The former reference to property "which may be acquired by the
27 Department and any institution or agency thereunder" is deleted as
28 obsolete. See General Revisor's Note to this subtitle.

29 For an interpretation of the meaning of former Art. 27, § 668, see 83 Op.
30 Att'y Gen. _____(1998) [Opinion No. 98-008 (April 10, 1998)].

31 Defined term: "Division" § 3-101

32 3-220. FINANCIAL CONTROL OF FACILITIES.

33 (A) IN GENERAL.

1 THE DIVISION CONTROLS THE FINANCIAL AFFAIRS OF EACH UNIT IN THE
2 DIVISION.

3 (B) APPROVAL OF BILLS OR ACCOUNTS.

4 A BILL OR ACCOUNT AGAINST A UNIT MAY NOT BE PAID UNLESS IT IS
5 APPROVED BY THE DIVISION.

6 REVISOR'S NOTE: This section is new language derived without substantive
7 change from former Art. 27, § 669.

8 In subsections (a) and (b) of this section, the references to the "Division"
9 are substituted for the former, obsolete references to the "Department".
10 See General Revisor's Note to this subtitle.

11 Also in subsections (a) and (b) of this section, the references to a "unit" in
12 the Division are substituted for the former references to "institutions or
13 agencies" for brevity and consistency throughout this article. See General
14 Revisor's Note to this article.

15 Defined term: "Division" § 3-101

16 3-221. FEDERAL GRANTS AND LOANS.

17 (A) IN GENERAL.

18 THE DIVISION MAY APPLY FOR AND RECEIVE FUNDS OR PROPERTY IN THE
19 FORM OF A GRANT OR LOAN FROM THE FEDERAL GOVERNMENT OR A UNIT OF THE
20 FEDERAL GOVERNMENT TO ESTABLISH OR MAINTAIN CORRECTIONAL FACILITIES IN
21 THE DIVISION ON THE TERMS THAT THE DIVISION APPROVES.

22 (B) STATE LAW.

23 THE DIVISION MAY NOT APPLY FOR A GRANT OR LOAN UNDER THIS SECTION IF
24 THERE IS A REQUIREMENT TO APPLY ANY OF THE FUNDS OR PROPERTY IN
25 CONTRAVENTION OF ANY PROVISION OF STATE LAW RELATING TO CORRECTIONAL
26 FACILITIES IN THE DIVISION.

27 (C) APPROVAL OF LOAN.

28 THE DIVISION MAY NOT ACCEPT A LOAN UNDER THIS SECTION UNLESS THE
29 DIVISION HAS OBTAINED ANY APPROVAL REQUIRED BY LAW.

30 (D) REPAYMENT OF LOAN.

31 THE REPAYMENT OF A LOAN WITH INTEREST, IF ANY, SHALL BE MADE FROM
32 FUNDS APPROPRIATED TO THE DIVISION IN THE STATE BUDGET.

33 REVISOR'S NOTE: This section is new language derived without substantive
34 change from former Art. 27, § 670.

1 In subsections (a) and (b) of this section, the references to "property" are
2 substituted for the former references to "chattels, or foodstuffs" for brevity.

3 In subsection (a) of this section, the reference to a "unit of the federal
4 government" is substituted for the former reference to a "board, bureau,
5 commission, department or other agency" for brevity. See General
6 Revisor's Note to this article.

7 Also in subsection (a) of this section, the defined term "correctional
8 facilit[y]" is substituted for the former reference to "penal and reformatory
9 institutions" for consistency throughout this article. See General Revisor's
10 Note to this article.

11 In subsection (d) of this section, the reference to the "State" budget is
12 added to state expressly that which only was implied in the former law,
13 i.e., the Division's funds are appropriated in the State budget.

14 Defined terms: "Correctional facility" § 1-101

15 "Division" § 3-101

16 3-222. EXPENSES.

17 THE EXPENSES RELATING TO GUARDING, LODGING, FEEDING, CLOTHING, AND
18 CARING FOR AN INMATE WHO HAS BEEN SENTENCED TO THE JURISDICTION OF THE
19 DIVISION OF CORRECTION MAY NOT BE ASSESSED AGAINST, BILLED TO, OR PAID BY
20 A COUNTY.

21 REVISOR'S NOTE: This section is derived without substantive change from
22 the third sentence of former Art. 27, § 76.

23 The reference to an inmate who is sentenced to "the jurisdiction of the
24 Division of Correction" is substituted for the former reference to an inmate
25 who is sentenced to "any State institution" for consistency with § 9-103 of
26 this article.

27 The reference to the county "where such person was indicted" is deleted for
28 accuracy. Allegations that an individual has committed a crime may be set
29 forth in an information, a citation, or a statement of charges as well as an
30 indictment. See Md. Rule 4-102. This deletion also clarifies that no county
31 may be charged for the specified expenses, regardless of where the
32 charging document was filed. These types of expenses are paid by the
33 State, as set forth in the annual State budget.

34 The former phrase "irrespectively of whether or not the judgement, upon
35 which such sentence is imposed, is thereafter reversed" is deleted as
36 surplusage.

37 The reference to the defined term "county" is substituted for the former
38 reference to "the county commissioners of the county ... or the Mayor and
39 City Council of Baltimore" for brevity. See § 1-101 of this article for the

1 definition of "county".

2 Defined terms: "County" § 1-101

3 "Inmate" § 1-101

4 "State correctional facility" § 1-101

5 GENERAL REVISOR'S NOTE TO SUBTITLE:

6 Former Art. 27, § 671, which authorized the Division to require the execution of
7 a performance bond or rescind a contract under certain circumstances, is deleted as
8 obsolete in light of the specific requirements relating to bonds and default remedies
9 set forth in Division II of the State Finance and Procurement Article. See SF §§
10 13-216 and 17-103 and 83 Op. Att'y Gen. ____ (1998) [Opinion No. 98-008 (April 10,
11 1998)].

12 Former Art. 27, § 667, which specified that the Division has the "powers, duties,
13 responsibilities, and functions provided in this subtitle and elsewhere ... for the
14 [former] Department of Correctional Services", is deleted as obsolete. The
15 Department of Correctional Services was reorganized as the Division of Correction in
16 1970. See Ch. 401, Acts of 1970.

17 The third through fifth sentences of former Art. 41, § 4-105(a), which provided
18 that the Division of Correction shall have the powers, duties, responsibilities,
19 obligations, and functions of the Department of Correctional Services, are transferred
20 to the Session Laws. See § ____ of Ch. ____, Acts of 1999. Although the transfers
21 contemplated by the reorganization of the former Department of Correctional
22 Services have taken place, see Ch. 401, Acts of 1970, the provision is retained in the
23 Session Laws to avoid any inadvertent substantive effect that its repeal might have.

24 SUBTITLE 3. PRERELEASE UNIT FOR WOMEN.

25 3-301. AUTHORITY TO OPERATE.

26 THE COMMISSIONER MAY OPERATE A PRERELEASE UNIT FOR WOMEN.

27 REVISOR'S NOTE: This section is new language derived without substantive
28 change from the first sentence of former Art. 27, § 678C(a).

29 The Correctional Services Article Review Committee notes, for
30 consideration by the General Assembly, that this section has not been
31 revised using standard language. Typically, statutory language that
32 creates a governmental unit simply states that there is such a unit. This
33 section retains language from former Art. 27, § 678C(a) that made it
34 discretionary for the Commissioner to operate a prerelease unit for women.
35 This discretionary language conflicts with language that is used elsewhere
36 in this subtitle that assumes that such a unit will, in fact, exist. For
37 example, former Art. 27, § 678C(c)(2), which is revised in § 3-303 of this
38 subtitle, requires the Commissioner to develop comprehensive
39 rehabilitative prerelease services and to make these services available to
40 inmates in a prerelease unit for women. The General Assembly may wish

1 to clarify whether it is mandatory or discretionary for the Commissioner to
2 operate a prerelease unit for women.

3 The second sentence of former Art. 27, § 678C(a) is deleted as obsolete.

4 Defined term: "Commissioner" § 3-101

5 3-302. POWERS AND DUTIES OF COMMISSIONER; GENERALLY.

6 THE COMMISSIONER HAS THE SAME POWERS AND DUTIES RELATING TO A
7 PRERELEASE UNIT FOR WOMEN AS THE COMMISSIONER HAS FOR ANY OTHER
8 CORRECTIONAL FACILITY IN THE DIVISION.

9 REVISOR'S NOTE: This section is new language derived without substantive
10 change from former Art. 27, § 678C(b).

11 The former reference to the Commissioner's "authority" is deleted as
12 redundant of the reference to the Commissioner's "powers".

13 The former reference to the Commissioner's "functions" is deleted as
14 redundant of the reference to the Commissioner's "duties".

15 The reference to "any other correctional facility in the Division" is
16 substituted for the former reference to "correctional and reformatory
17 institutions" for consistency throughout this article. See General Revisor's
18 Note to this article.

19 Defined terms: "Commissioner" § 3-101

20 "Correctional facility" § 1-101

21 "Division" § 3-101

22 3-303. COMPREHENSIVE REHABILITATIVE PRERELEASE SERVICES.

23 (A) COMMISSIONER'S DUTIES.

24 THE COMMISSIONER SHALL:

25 (1) DEVELOP COMPREHENSIVE REHABILITATIVE PRERELEASE
26 SERVICES; AND

27 (2) MAKE THESE SERVICES AVAILABLE TO INMATES OF A PRERELEASE
28 UNIT FOR WOMEN.

29 (B) PRERELEASE SERVICES.

30 THE COMPREHENSIVE REHABILITATIVE PRE-RELEASE SERVICES SHALL:

31 (1) ASSIST INMATES IN IMPROVING THEIR EDUCATION, UPGRADING
32 VOCATIONAL SKILLS, AND OBTAINING SUITABLE EMPLOYMENT;

1 (2) PROVIDE INMATES WITH THE OPPORTUNITY TO STRENGTHEN
2 FAMILY AND COMMUNITY RELATIONSHIPS THROUGH EXTENDED FAMILY LEAVE;

3 (3) ASSIST INMATES IN IMPROVING THEIR PHYSICAL AND MENTAL
4 HEALTH AND REDUCING ANY TENDENCY TO ABUSE ALCOHOL OR DRUGS; AND

5 (4) PROVIDE APPROPRIATE COUNSELING, INSTRUCTION, SUPERVISION,
6 AND MEDICAL AND PSYCHOLOGICAL TREATMENT AS NECESSARY TO HELP INMATES
7 ACHIEVE STABLE AND PRODUCTIVE ROLES IN SOCIETY.

8 REVISOR'S NOTE: This section is new language derived without substantive
9 change from former Art. 27, § 678C(c)(1) and (2).

10 Defined terms: "Commissioner" § 3-101

11 "Inmate" § 1-101

12 3-304. CONTRACTS AND PURCHASE OF SERVICE AGREEMENTS.

13 (A) COMPREHENSIVE REHABILITATIVE PRERELEASE SERVICES.

14 BY CONTRACT OR PURCHASE OF SERVICE AGREEMENT, THE DIVISION MAY
15 ARRANGE FOR A PERSON OR GOVERNMENTAL UNIT TO PROVIDE COMPREHENSIVE
16 REHABILITATIVE PRERELEASE SERVICES IN A PRERELEASE UNIT FOR WOMEN.

17 (B) FOOD, HOUSING, TRANSPORTATION, AND PROGRAMS.

18 WITH THE SECRETARY'S APPROVAL, THE COMMISSIONER MAY CONTRACT WITH
19 A PERSON OR A MUNICIPAL OR AUTHORITY TO PROVIDE FOOD, HOUSING,
20 TRANSPORTATION, AND PROGRAMS TO INMATES IN A PRERELEASE UNIT FOR
21 WOMEN.

22 (C) FEDERAL INMATES.

23 UNDER A CONTRACT WITH THE FEDERAL GOVERNMENT, THE COMMISSIONER
24 MAY HOUSE FEDERAL INMATES IN A PRERELEASE UNIT FOR WOMEN.

25 REVISOR'S NOTE: This section is new language derived without substantive
26 change from former Art. 27, § 678C(c)(3) and (d).

27 In subsection (a) of this section, the reference to a governmental "unit" is
28 substituted for the former reference to a governmental "agency" for
29 consistency throughout this article. See General Revisor's Note to this
30 article.

31 In subsections (a) and (b) of this section, the former references to any
32 "firm[s]" or "organization[s]" are deleted as included in the reference to the
33 defined term "person". See § 1-101 of this article for the definition of
34 "person".

35 In subsection (b) of this section, the former reference to "private" persons is
36 deleted as implicit in the reference to the defined term "person". See §

1 1-101 of this article for the definition of "person".

2 Defined terms: "Commissioner" § 3-101

3 "County" § 1-101

4 "Division" § 3-101

5 "Inmate" § 1-101

6 "Person" § 1-101

7 "Secretary" § 1-101

8 3-305. LEAVE FOR INMATES.

9 (A) PURPOSE OF LEAVE.

10 SUBJECT TO REGULATIONS ADOPTED BY THE COMMISSIONER, THE
11 COMMISSIONER MAY DELEGATE TO THE FACILITY ADMINISTRATOR OF A
12 PRERELEASE UNIT FOR WOMEN THE AUTHORITY TO GRANT INMATES THE
13 PRIVILEGE OF LEAVING THE CONFINES OF THE UNIT FOR THE PURPOSE OF:

14 (1) ENGAGING IN OR SEEKING EMPLOYMENT;

15 (2) PARTICIPATING IN EDUCATIONAL PROGRAMS OR VOCATIONAL
16 TRAINING;

17 (3) PARTICIPATING IN COMMUNITY OR CIVIC ACTIVITIES;

18 (4) PARTICIPATING IN VOLUNTEER WORK;

19 (5) PARTICIPATING IN ATHLETIC COMPETITION; OR

20 (6) MAKING PERSONAL OR FAMILY VISITS.

21 (B) CONDITIONS.

22 WHEN OUTSIDE THE CONFINES OF A PRERELEASE UNIT FOR WOMEN, AN
23 INMATE SHALL CARRY, AT ALL TIMES, A COPY OF THE FORM SIGNED BY THE
24 FACILITY ADMINISTRATOR CONTAINING THE CONDITIONS GOVERNING THE GRANT
25 OF LEAVE.

26 (C) CUSTODY.

27 (1) AN INMATE WHO IS ON LEAVE IS DEEMED TO BE IN THE CUSTODY OF
28 THE COMMISSIONER TO THE SAME EXTENT AND SUBJECT TO THE SAME
29 SUPERVISION AND CONTROL AS AN INMATE WHO IS ACTUALLY IN CONFINEMENT.

30 (2) AN INMATE WHO ESCAPES WHILE ON LEAVE UNDER THIS SECTION
31 IS SUBJECT TO THE PENALTIES ESTABLISHED UNDER ARTICLE 27, § 139 OF THE
32 CODE.

33 REVISOR'S NOTE: This section is new language derived without substantive
34 change from former Art. 27, § 678C(e).

1 In the introductory language of subsection (a) and in subsection (b) of this
2 section, the references to a "facility administrator" are substituted for the
3 former references to a "director" to reflect current nomenclature.
4 Currently, a prerelease unit for women is managed by a facility
5 administrator.

6 Also in the introductory language of subsection (a) and in subsection (b) of
7 this section, the former references to "assistant directors" and "assistant
8 director" are deleted as obsolete. Currently, there are no assistant facility
9 administrators in the Division of Correction.

10 In subsection (a) of this section, the phrase "[s]ubject to regulations
11 adopted by the Commissioner" is substituted for the former phrase "[i]n
12 conformity with ... regulations adopted by the Commissioner" for
13 consistency with similar provisions in other revised articles of the Code.

14 Also in subsection (a) of this section, the former reference to "rules" is
15 deleted in light of the reference to "regulations". See General Revisor's
16 Note to this article.

17 In subsection (a)(1) of this section, the reference to the Commissioner's
18 authority to grant leave for the purpose of "engaging in" employment is
19 added for grammatical consistency within this subsection. In subsection
20 (a)(2), (3), (4), and (5) of this section, the references to the Commissioner's
21 authority to grant leave for the purpose of "participating in" educational
22 programs, vocational training, community or civic activities, volunteer
23 work, or athletic competition are added for the same reason.
24 Correspondingly, in subsection (a)(6) of this section, the reference to
25 "making" personal or family visits is added.

26 In subsection (c)(1) of this section, the reference to the custody of the
27 "Commissioner" is substituted for the former reference to the custody of
28 the "Division of Correction" for consistency with § 9-103 of this article.

29 The Correctional Services Article Review Committee notes, for
30 consideration by the General Assembly, that subsection (c)(2) of this
31 section, which provides that an inmate who escapes while on leave is
32 subject to the penalties established under Art. 27, § 139, is one of many
33 provisions in this article that relates to inmates who escape while
34 legitimately outside the physical confines of a correctional facility (e.g.,
35 while on work release, home detention, pretrial release, weekend leave,
36 compassionate leave, family leave, etc.). See, e.g., §§ 3-409(c), 3-807(i),
37 3-808(d), 3-811(c), 9-520(b), 9-602(e), 11-319(a)(5), 11-702(b)(8),
38 11-703(d)(5)(iii) and (f)(4), 11-705(h), 11-706(b)(8), 11-708(b)(8)(ii),
39 11-711(h)(2), 11-712(c)(6)(ii), 11-714(c)(6), 11-715(g)(2), 11-716(h)(2),
40 11-717(f)(2), 11-723(b)(8), and 11-724(h)(2) of this article. The Committee
41 is concerned about the patchwork nature of these provisions, which, in
42 many cases, apply only in one particular county or to a limited category of
43 conduct (e.g., failure to comply with the terms of an authorization for work

1 release). The Committee is also concerned about the lack of uniformity in
 2 the language of these provisions. Some provisions specifically state that
 3 certain conduct is "a violation of" Art. 27, § 139, see, e.g., §§ 3-808(d),
 4 3-811(c), 11-706(b)(8), 11-708(b)(8)(ii), 11-711(h)(2), 11-712(c)(6)(ii),
 5 11-714(c)(6), 11-715(g)(2), 11-716(h)(2), 11-717(f)(2), and 11-724(h)(2) of
 6 this article, while others simply state that certain conduct is "subject to the
 7 penalties established under" Art. 27, § 139, see, e.g., §§ 11-319(a)(5) and
 8 11-705(h) of this article. Some provisions state that certain conduct is a
 9 misdemeanor, but that the conduct is nevertheless punishable under Art.
 10 27, § 139 (which establishes penalties for felony escape). See, e.g., §§
 11 3-807(i) and 11-703(f)(4) of this article. Some provisions state that a
 12 "willful" act is an element of the crime of escape. See, e.g., §§ 3-409(c) and
 13 11-703(d)(5)(iii) of this article. Some provisions state that an inmate who
 14 violates a term or condition of home detention is guilty of a misdemeanor
 15 but make no reference to "escape" or Art. 27, § 139. See, e.g., §§
 16 11-702(b)(8) and 11-723(b)(8) of this article. In light of the patchwork
 17 nature of these provisions and the many inconsistencies in statutory
 18 language, the General Assembly may wish to examine all of them and
 19 determine whether to establish a uniform, statewide policy in this area.

20 Defined terms: "Commissioner" § 3-101

21 "Division" § 3-101

22 "Inmate" § 1-101

23 **SUBTITLE 4. HOME DETENTION PROGRAM.**

24 3-401. "PROGRAM" DEFINED.

25 IN THIS SUBTITLE, "PROGRAM" MEANS A HOME DETENTION PROGRAM
 26 ESTABLISHED UNDER THIS SUBTITLE.

27 REVISOR'S NOTE: This section is new language derived without substantive
 28 change from former Art. 27, § 689A(a)(1), (2), and (4).

29 Former Art. 27, § 689A(a)(2), which defined "Commissioner", is deleted in
 30 light of § 3-101 of this article to the same effect.

31 3-402. HOME DETENTION AUTHORIZED.

32 WITH THE SECRETARY'S APPROVAL, THE COMMISSIONER MAY ESTABLISH A
 33 HOME DETENTION PROGRAM UNDER WHICH AN INMATE IN THE CUSTODY OF THE
 34 COMMISSIONER MAY LIVE IN A PRIVATE DWELLING THAT THE COMMISSIONER OR
 35 THE COMMISSIONER'S DESIGNEE APPROVES.

36 REVISOR'S NOTE: This section is new language derived without substantive
 37 change from former Art. 27, § 689A(b).

38 Defined terms: "Commissioner" § 3-101

39 "Inmate" § 1-101

40 "Secretary" § 1-101

1 3-403. METHODS OF SUPERVISION.

2 AN INMATE IN THE PROGRAM SHALL BE SUPERVISED BY MEANS OF:

- 3 (1) ELECTRONIC DEVICES; AND
- 4 (2) DIRECT CONTACT BY EMPLOYEES OF THE DIVISION.

5 REVISOR'S NOTE: This section is new language derived without substantive
6 change from former Art. 27, § 689A(c).

7 Defined terms: "Division" § 3-101

8 "Inmate" § 1-101

9 "Program" § 3-401

10 3-404. ELIGIBILITY.

11 AN INMATE IS NOT ELIGIBLE FOR THE PROGRAM IF THE INMATE:

- 12 (1) IS SERVING A LIFE SENTENCE;
- 13 (2) HAS BEEN FOUND GUILTY OF A CRIME OF VIOLENCE AS DEFINED IN
14 ARTICLE 27, § 643B OF THE CODE UNLESS:
 - 15 (I) 5 YEARS HAVE ELAPSED SINCE EXPIRATION OF THE SENTENCE
16 FOR THE CRIME OF VIOLENCE; OR
 - 17 (II) THE INMATE IS WITHIN 90 DAYS OF RELEASE ON PAROLE OR
18 MANDATORY SUPERVISION; OR
- 19 (3) HAS BEEN FOUND GUILTY OF THE CRIME OF:
 - 20 (I) CHILD ABUSE UNDER ARTICLE 27, § 35C OF THE CODE; OR
 - 21 (II) ESCAPE UNDER ARTICLE 27, § 139 OF THE CODE.

22 REVISOR'S NOTE: This section is new language derived without substantive
23 change from former Art. 27, § 689A(d).

24 Defined terms: "Inmate" § 1-101

25 "Program" § 3-401

26 3-405. CONDITIONS OF PLACEMENT.

27 AN INMATE MAY BE PLACED IN THE PROGRAM IF:

- 28 (1) THE INMATE AGREES TO WAIVE THE INMATE'S RIGHT TO CONTEST
29 EXTRADITION;
- 30 (2) THE COMMISSIONER OR THE COMMISSIONER'S DESIGNEE APPROVES
31 THE PLACEMENT; AND

1 (3) THE INMATE HAS SERVED ANY STATUTORILY IMPOSED MINIMUM
2 SENTENCE, LESS THE ALLOWANCES FOR DIMINUTION OF THE INMATE'S TERM OF
3 CONFINEMENT PROVIDED UNDER SUBTITLE 7 OF THIS TITLE AND ARTICLE 27, § 638C
4 OF THE CODE.

5 REVISOR'S NOTE: This section is new language derived without substantive
6 change from former Art. 27, § 689A(e).

7 In the introductory language of this section, the former reference to placing
8 an inmate in the program "only" if certain factors are met is deleted as
9 implicit in the list of eligibility requirements.

10 Former Art. 27, 689A(e)(3), which is revised in item (3) of this section,
11 provided that an inmate may be placed in the home detention program
12 only after the inmate has served any statutorily imposed minimum
13 sentence, less the allowances for diminution of the inmate's term of
14 confinement provided under Art. 27, § 638C and former Art. 27, § 700,
15 which is revised in Subtitle 7 of this title. The Correctional Services Article
16 Review Committee notes, for consideration by the General Assembly, that
17 former Art. 27, § 704A, which is revised in Title 11, Subtitle 5 of this
18 article, establishes rules governing diminution of confinement for inmates
19 in local correctional facilities. The General Assembly may wish to revise
20 item (3) of this section to include a reference to allowances for diminution
21 of the inmate's term of confinement provided under Title 11, Subtitle 5 of
22 this article.

23 Defined terms: "Commissioner" § 3-101

24 "Inmate" § 1-101

25 "Program" § 3-401

26 3-406. RESTRICTIONS ON MOVEMENT.

27 WHILE IN THE PROGRAM, AN INMATE MUST REMAIN IN THE INMATE'S
28 APPROVED DWELLING EXCEPT:

29 (1) WITH THE APPROVAL OF THE PROGRAM ADMINISTRATOR, TO GO
30 DIRECTLY TO AND FROM:

31 (I) THE INMATE'S APPROVED PLACE OF EMPLOYMENT;

32 (II) MEDICAL OR MENTAL HEALTH TREATMENT; OR

33 (III) OFFICES OF THE DEPARTMENT;

34 (2) AS REQUIRED BY LEGITIMATE MEDICAL OR OTHER EMERGENCIES;
35 OR

36 (3) AS OTHERWISE ALLOWED OR DIRECTED BY THE PROGRAM
37 ADMINISTRATOR.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 27, § 689A(f).

3 In paragraph (1) of this section, the former reference to "prior" approval is
4 deleted as implicit in the reference to "approval".

5 Defined terms: "Department" § 1-101

6 "Inmate" § 1-101

7 "Program" § 3-401

8 3-407. LIVING EXPENSES AND SUPPORT PAYMENTS.

9 (A) INMATE'S LIVING EXPENSES.

10 AN INMATE IN THE PROGRAM IS RESPONSIBLE FOR ALL OF THE INMATE'S
11 LIVING EXPENSES, INCLUDING THOSE FOR FOOD, CLOTHING, SHELTER, AND
12 UTILITIES.

13 (B) SUPPORT OF DEPENDENTS.

14 UNLESS OTHERWISE ALLOWED BY THE COMMISSIONER OR THE
15 COMMISSIONER'S DESIGNEE, AS A CONDITION OF PARTICIPATION IN THE PROGRAM,
16 AN INMATE SHALL MAKE ANY COURT ORDERED PAYMENTS FOR THE SUPPORT OF
17 DEPENDENTS.

18 REVISOR'S NOTE: This section formerly was Art. 27, § 689A(g).

19 The only changes are in style.

20 Defined terms: "Commissioner" § 3-101

21 "Inmate" § 1-101

22 "Program" § 3-401

23 3-408. RESTITUTION AND FEES.

24 (A) COURT ORDERED RESTITUTION.

25 TO SATISFY COURT ORDERED RESTITUTION THAT AN INMATE IN THE PROGRAM
26 OWES, THE DIVISION SHALL:

27 (1) DETERMINE THE AMOUNT OF REASONABLE PAYMENTS; AND

28 (2) COLLECT AND DISBURSE THE PAYMENTS.

29 (B) COST OF ELECTRONIC SUPERVISION.

30 (1) THE DIVISION SHALL ESTABLISH A REASONABLE FEE FOR THE COST
31 OF ELECTRONIC SUPERVISION AND, EXCEPT AS PROVIDED IN PARAGRAPH (2) OF
32 THIS SUBSECTION, COLLECT THE FEE FROM EACH INMATE IN THE PROGRAM.

1 (2) IF THE DIVISION DETERMINES THAT AN INMATE CANNOT AFFORD
2 TO PAY THE FEE ESTABLISHED UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE
3 DIVISION MAY EXEMPT THE INMATE WHOLLY OR PARTLY FROM THE FEE.

4 REVISOR'S NOTE: This section is new language derived without substantive
5 change from former Art. 27, § 689A(h).

6 In subsection (b)(1) of this section, the word "establish" is substituted for
7 the former reference to "determine" for consistency throughout this article
8 in provisions dealing with the establishment of fees.

9 In subsection (b)(2) of this section, the reference to "the fee" is substituted
10 for the former reference to "the cost of electronic monitoring" for
11 consistency with subsection (b)(1) of this section.

12 Defined terms: "Division" § 3-101

13 "Inmate" § 1-101

14 "Program" § 3-401

15 3-409. PROHIBITED ACTS.

16 (A) VIOLATION OF CONDITIONS OF PLACEMENT.

17 (1) AN INMATE WHO WILLFULLY VIOLATES THE CONDITIONS OF THE
18 INMATE'S PLACEMENT IN THE PROGRAM IS GUILTY OF A MISDEMEANOR AND ON
19 CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 1 YEAR.

20 (2) NOTWITHSTANDING § 9-104 OF THIS ARTICLE, A SENTENCE UNDER
21 THIS SUBSECTION MAY BE TO THE JURISDICTION OF THE DIVISION.

22 (B) COMMISSION OF CRIME.

23 COMMISSION OF ANY CRIME BY AN INMATE CONSTITUTES A VIOLATION OF THE
24 CONDITIONS OF THE INMATE'S PLACEMENT IN THE PROGRAM.

25 (C) ESCAPE.

26 AN INMATE WHO WILLFULLY VIOLATES § 3-406 OF THIS SUBTITLE IS GUILTY OF
27 ESCAPE AND ON CONVICTION IS SUBJECT TO THE PENALTIES ESTABLISHED UNDER
28 ARTICLE 27, § 139 OF THE CODE.

29 REVISOR'S NOTE: This section is new language derived without substantive
30 change from former Art. 27, § 689A(i).

31 The Correctional Services Article Review Committee notes, for
32 consideration by the General Assembly, that subsection (c) of this section is
33 one of many provisions in this article that relates to inmates who escape
34 while legitimately outside the confines of a correctional facility (e.g., while
35 on work release, home detention, pretrial release, weekend leave,
36 compassionate leave, family leave, etc.). For a discussion of the

1 Committee's perspective on these provisions, see § 3-305(c) of this article
2 and accompanying Revisor's Note.

3 Defined terms: "Division" § 3-101

4 "Inmate" § 1-101

5 "Program" § 3-401

6 3-410. AGENCY RELATIONSHIP.

7 AN INMATE IN THE PROGRAM IS NOT AN AGENT OR EMPLOYEE OF THE
8 DIVISION.

9 REVISOR'S NOTE: This section formerly was Art. 27, § 689A(j)(1).

10 In subsection (b) of this section, the reference to a "crime" is substituted for
11 the former reference to a "misdemeanor or a felony" for brevity.

12 Former Art. 27, § 689A(j)(2) is deleted as unnecessary in light of § 10-304
13 of this article, which provides that the purpose of the Sundry Claims Board
14 is to administer benefits to an inmate who, while in the Patuxent
15 Institution, the Baltimore City Detention Center, or any correctional
16 facility in the Division of Correction: (1) was engaged in any work for which
17 wages or a stipulated sum was paid by the Patuxent Institution, the
18 Baltimore City Detention Center, or any correctional facility in the
19 Division of Correction; and (2) sustained a permanent partial or
20 permanent total disability as a result of a personal injury arising out of
21 and in the course of work for which wages or a stipulated sum was paid by
22 the Patuxent Institution, the Baltimore City Detention Center, or any
23 correctional facility in the Division of Correction and that incapacitated
24 the inmate or materially reduced the inmate's earning power. By its own
25 terms, § 10-304 of this article does not apply to injuries sustained during
26 private employment by an inmate in the home detention program. No
27 substantive change is intended.

28 The only other changes are in style.

29 Defined terms: "Division" § 3-101

30 "Inmate" § 1-101

31 "Program" § 3-401

32 3-411. PAROLE.

33 AN INMATE'S PARTICIPATION IN THE PROGRAM DOES NOT AFFECT THE
34 INMATE'S ELIGIBILITY FOR PAROLE, DIMINUTION CREDITS, OR OTHER PRIVILEGES
35 AVAILABLE BY LAW TO INMATES IN THE CUSTODY OF THE COMMISSIONER.

36 REVISOR'S NOTE: This section formerly was Art. 27, § 689A(k).

37 The former reference to diminution "of confinement" credits is deleted as
38 implicit in the reference to "diminution credits" and for consistency

1 throughout this article. See, e.g., Title 3, Subtitle 7 and Title 11, Subtitle 5
2 of this article.

3 The former reference to "regulation" is deleted as implicit in the word
4 "law". See General Revisor's Note to this article.

5 The only other changes are in style.

6 Defined terms: "Commissioner" § 3-101

7 "Inmate" § 1-101

8 "Program" § 3-401

9 3-412. CORRECTIONAL EMPLOYEES.

10 (A) SECURITY.

11 THE COMMISSIONER SHALL EMPLOY CORRECTIONAL EMPLOYEES TO MONITOR
12 AND PROVIDE SECURITY FOR INMATES IN THE PROGRAM.

13 (B) POWER OF CORRECTIONAL EMPLOYEES.

14 A CORRECTIONAL EMPLOYEE DESIGNATED TO MONITOR INMATES IN THE
15 PROGRAM MAY:

16 (1) OBTAIN AND EXECUTE SEARCH WARRANTS AS AUTHORIZED UNDER
17 § 3-415 OF THIS SUBTITLE; AND

18 (2) MAKE ARRESTS AS AUTHORIZED UNDER ARTICLE 27, § 594B(M) OF
19 THE CODE.

20 (C) QUALIFICATION FOR EMPLOYEES.

21 A CORRECTIONAL EMPLOYEE AUTHORIZED TO MAKE ARRESTS UNDER THIS
22 SECTION SHALL:

23 (1) MEET THE MINIMUM QUALIFICATIONS REQUIRED BY THE
24 MARYLAND POLICE TRAINING COMMISSION; AND

25 (2) COMPLETE SATISFACTORILY THE TRAINING PRESCRIBED BY THE
26 MARYLAND POLICE TRAINING COMMISSION.

27 REVISOR'S NOTE: This section formerly was Art. 27, § 689A(l) and (m).

28 The only changes are in style.

29 Defined terms: "Commissioner" § 3-101

30 "Inmate" § 1-101

31 "Program" § 3-401

1 3-413. REMOVAL FROM PROGRAM.

2 THE COMMISSIONER OR THE COMMISSIONER'S DESIGNEE MAY REMOVE AN
3 INMATE FROM THE PROGRAM AT ANY TIME AND FOR ANY REASON.

4 REVISOR'S NOTE: This section formerly was Art. 27, § 689A(n).

5 The only changes are in style.

6 Defined terms: "Commissioner" § 3-101

7 "Inmate" § 1-101

8 "Program" § 3-401

9 3-414. REGULATIONS.

10 (A) ADOPT REGULATIONS.

11 WITH THE SECRETARY'S APPROVAL, THE COMMISSIONER SHALL ADOPT
12 REGULATIONS TO IMPLEMENT THE PROGRAM.

13 (B) ADMINISTRATIVE PROCEDURE ACT.

14 NOTWITHSTANDING § 10-101(G)(2)(I) OF THE STATE GOVERNMENT ARTICLE, THE
15 REGULATIONS SHALL BE ADOPTED IN ACCORDANCE WITH THE REQUIREMENTS OF
16 TITLE 10, SUBTITLE 1 OF THE STATE GOVERNMENT ARTICLE.

17 REVISOR'S NOTE: This section is new language derived without substantive
18 change from former Art. 27, § 689A(o).

19 In subsection (a) of this section, the former requirement that the
20 Commissioner adopt "reasonable" regulations is deleted as implicit in the
21 laws governing the adoption of regulations set forth in Title 10, Subtitle 1
22 of the State Government Article. See, e.g., SG § 10-111.1(b).

23 Defined terms: "Commissioner" § 3-101

24 "Program" § 3-401

25 "Secretary" § 1-101

26 3-415. SEARCH WARRANTS.

27 (A) APPLICANTS.

28 THE COMMISSIONER OR THE COMMISSIONER'S DESIGNEE MAY APPLY TO A
29 JUDGE OF THE DISTRICT COURT OR A CIRCUIT COURT FOR A SEARCH WARRANT TO
30 ENTER THE APPROVED DWELLING OF AN INMATE IN THE PROGRAM TO SEARCH FOR
31 THE INMATE.

32 (B) CONTENTS OF APPLICATION.

33 AN APPLICATION FOR A SEARCH WARRANT SHALL:

1 (1) BE IN WRITING;

2 (2) BE VERIFIED BY THE APPLICANT; AND

3 (3) DESCRIBE THE PREMISES TO BE SEARCHED AND THE NATURE,
4 SCOPE, AND PURPOSE OF THE SEARCH.

5 (C) FINDINGS.

6 A JUDGE WHO RECEIVES AN APPLICATION FOR A SEARCH WARRANT MAY ISSUE
7 A WARRANT ON A FINDING THAT:

8 (1) THE SCOPE OF THE PROPOSED SEARCH IS REASONABLE; AND

9 (2) OBTAINING CONSENT TO ENTER THE PREMISES MAY JEOPARDIZE
10 THE ATTEMPT TO TAKE CUSTODY OF THE INMATE.

11 (D) SCOPE OF WARRANT.

12 (1) A SEARCH WARRANT ISSUED UNDER THIS SECTION SHALL SPECIFY
13 THE LOCATION OF THE PREMISES TO BE SEARCHED.

14 (2) A SEARCH CONDUCTED IN ACCORDANCE WITH A SEARCH WARRANT
15 ISSUED UNDER THIS SECTION MAY NOT EXCEED THE LIMITS SPECIFIED IN THE
16 WARRANT.

17 (E) EXECUTION AND RETURN.

18 A SEARCH WARRANT ISSUED UNDER THIS SECTION SHALL BE EXECUTED AND
19 RETURNED TO THE ISSUING JUDGE:

20 (1) WITHIN THE PERIOD SPECIFIED IN THE WARRANT, WHICH MAY NOT
21 EXCEED 30 DAYS FROM THE DATE OF ISSUANCE; OR

22 (2) WITHIN 15 DAYS AFTER THE WARRANT IS ISSUED, IF NO PERIOD IS
23 SPECIFIED IN THE WARRANT.

24 REVISOR'S NOTE: This section is new language derived without substantive
25 change from former Art. 27, § 689B.

26 In subsection (b) of this section, the reference to an application "for a
27 search warrant" is added to clarify the type of application that is being
28 submitted.

29 In subsection (b)(2) of this section, the requirement that an application for
30 a search warrant be "verified" by the applicant is substituted for the
31 former requirement that an application be "signed and sworn to" by the
32 applicant for consistency with similar provisions in other revised articles of
33 the Code. See General Revisor's Note to this article.

34 In subsection (b)(3) of this section, the former reference to a search "to be

1 performed by the applicant" is deleted as implicit in the reference to "the
2 search" as used in this subsection.

3 In subsection (d)(2) of this section, the reference to a search conducted "in
4 accordance with a search warrant issued under this section" is added to
5 state expressly that which was only implied in the former law.

6 In subsection (e)(1) of this section, the phrase "from the date of issuance" is
7 added to state expressly that which was formerly only implied in the
8 phrase "not to exceed 30 days".

9 The Correctional Services Article Review Committee notes, for
10 consideration by the General Assembly, that there is an inconsistency
11 between the use of the terms "dwelling" and "premises" in this section.
12 Under subsection (a), the Commissioner or Commissioner's designee may
13 apply for a search warrant to enter the "approved dwelling" of an inmate.
14 Subsection (b) requires the applicant to describe the "premises" to be
15 searched. Subsection (c) allows a judge to issue a search warrant when
16 obtaining consent to enter the "premises" may jeopardize an attempt to
17 take custody of the inmate. Subsection (d) requires a search warrant that
18 is issued under this section to specify the location of the "premises" to be
19 searched. The Committee is uncertain as to whether the words "dwelling"
20 and "premises" are synonymous or, alternatively, whether the word
21 "premises" has a broader meaning. The General Assembly may wish to
22 amend this section to use either "dwelling" or "premises" throughout the
23 entire section. See also § 6-109 of this article and accompanying Revisor's
24 Note.

25 Defined terms: "Commissioner" § 3-101

26 "Inmate" § 1-101

27 "Program" § 3-401

28 SUBTITLE 5. STATE USE INDUSTRIES.

29 3-501. DEFINITIONS.

30 (A) IN GENERAL.

31 IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

32 REVISOR'S NOTE: This subsection is new language derived without
33 substantive change from the introductory language of former Art. 27, §
34 681.

35 The former phrase "unless the context requires otherwise" is deleted as a
36 standard rule of statutory construction for defined terms.

37 No substantive change is intended.

38 (B) ADVISORY COMMITTEE.

1 "ADVISORY COMMITTEE" MEANS THE STATE USE INDUSTRIES ADVISORY
2 COMMITTEE.

3 REVISOR'S NOTE: This subsection is new language added to avoid repetition of
4 the full title of the Advisory Committee.

5 (C) CONTRACTING UNIT.

6 "CONTRACTING UNIT" MEANS A UNIT OF STATE GOVERNMENT THAT IS:

7 (1) AUTHORIZED TO CONTRACT FOR GOODS AND SERVICES; OR

8 (2) RESPONSIBLE FOR PROCUREMENT OF GOODS AND SERVICES.

9 REVISOR'S NOTE: This subsection is new language derived without
10 substantive change from former Art. 27, § 681(6).

11 In the introductory language of this subsection, the term "unit" is
12 substituted for the former term "agency" for consistency with terminology
13 used in other revised articles of the Code. See, e.g., SF § 11-101(x); see also
14 General Revisor's Note to this article.

15 In item (2) of this subsection, the former reference to "other employment
16 services" is deleted as unnecessary in light of the broad reference to
17 "services".

18 Also in item (2) of this subsection, the reference to "goods" is substituted
19 for the former reference to "commodit[ies]" for consistency with item (1) of
20 this subsection.

21 (D) GENERAL MANAGER.

22 "GENERAL MANAGER" MEANS THE GENERAL MANAGER OF STATE USE
23 INDUSTRIES.

24 REVISOR'S NOTE: This subsection is new language derived without
25 substantive change from former Art. 27, § 681(2).

26 The former phrase "within the Division of Correction" is deleted as
27 unnecessary in light of § 3-503 of this subtitle, which establishes State Use
28 Industries in the Division.

29 (E) POLITICAL SUBDIVISION.

30 "POLITICAL SUBDIVISION" MEANS A COUNTY, MUNICIPAL CORPORATION, OR
31 SPECIAL TAXING DISTRICT.

32 REVISOR'S NOTE: This section is new language derived without substantive
33 change from former Art. 27, § 681(5).

34 The former reference to counties, municipal corporations, and special

1 taxing districts "of this State" is deleted as inconsistent with § 3-511(5) of
2 this subtitle.

3 Defined term: "County" § 1-101

4 REVISOR'S NOTE TO SECTION: Former Art. 27, § 681(4), which defined
5 "[p]rograms" as "the State Use Industries programs provided and
6 administered by the Division" is deleted as unnecessary in light of the
7 unambiguous ways in which this word is used throughout this subtitle.

8 Former Art. 27, § 681(7) and (8), which defined "goods" and "service",
9 respectively, are deleted as unnecessary because the definitions did not
10 add anything to the meaning of these terms as commonly used.

11 3-502. LEGISLATIVE POLICY.

12 THE PURPOSE OF THIS SUBTITLE IS TO ESTABLISH A STATE USE INDUSTRIES
13 ORGANIZATION IN THE DIVISION THAT:

14 (1) IS FINANCIALLY SELF-SUPPORTING, GENERATES REVENUE FOR ITS
15 OPERATIONS AND CAPITAL INVESTMENTS, AND REIMBURSES THE DIVISION AT A
16 REASONABLE RATE FOR SERVICES EXCHANGED BETWEEN THE DIVISION AND STATE
17 USE INDUSTRIES;

18 (2) PROVIDES MEANINGFUL WORK EXPERIENCES FOR INMATES THAT
19 ARE INTENDED TO ALLOW INMATES TO IMPROVE WORK HABITS, ATTITUDES, AND
20 SKILLS FOR THE PURPOSE OF IMPROVING THE EMPLOYABILITY OF THE INMATES ON
21 RELEASE;

22 (3) SEEKS TO DEVELOP INDUSTRIES THAT PROVIDE FULL-TIME WORK
23 EXPERIENCE OR REHABILITATION PROGRAMS FOR ALL ELIGIBLE INMATES;

24 (4) OPERATES CORRECTIONAL INDUSTRIES IN AN ENVIRONMENT THAT
25 RESEMBLES AS CLOSELY AS POSSIBLE THE ENVIRONMENT OF PRIVATE SECTOR
26 BUSINESS OPERATIONS; AND

27 (5) MAKES THE DIVISION RESPONSIBLE FOR AND ACCOUNTABLE TO
28 THE SECRETARY AND THE GOVERNOR FOR THE STATE USE INDUSTRIES PROGRAM.

29 REVISOR'S NOTE: This section is new language derived without substantive
30 change from former Art. 27, § 680.

31 The Correctional Services Article Review Committee notes, for
32 consideration by the General Assembly, that the meaning of item (1) of this
33 section, which refers to services "exchanged between" the Division and
34 State Use Industries, is unclear. In current practice, State Use Industries
35 reimburses the Division for services that are provided by the Division to
36 State Use Industries (e.g., overhead expenses). The Division does not
37 reimburse State Use Industries for services provided by State Use
38 Industries to the Division (e.g., training and supervising inmates). The

1 General Assembly may wish to amend item (1) of this section to reflect
2 current practice, i.e., to provide that State Use Industries shall reimburse
3 the Division for services that are provided by the Division to State Use
4 Industries. Alternatively, the General Assembly may wish to amend item
5 (1) of this section to define "reasonable rate" to include consideration of
6 services provided by State Use Industries to the Division.

7 In item (3) of this section, the former reference to all eligible "Division of
8 Correction" inmates is deleted for consistency with current practice and §
9 4-211 of this article. Currently, inmates of the Baltimore City Detention
10 Center and the Patuxent Institution sometimes participate in State Use
11 Industries.

12 In item (5) of this section, the former reference to the State Use Industries
13 program "in this State" is deleted as implicit in the reference to "the State
14 Use Industries program".

15 Defined terms: "Division" § 3-101

16 "Inmate" § 1-101

17 "Secretary" § 1-101

18 3-503. ESTABLISHED.

19 THERE IS A STATE USE INDUSTRIES ORGANIZATION IN THE DIVISION.

20 REVISOR'S NOTE: This section is new language derived without substantive
21 change from the introductory language of former Art. 27, § 680, as it
22 related to the establishment of State Use Industries.

23 Defined term: "Division" § 3-101

24 3-504. AUTHORITY OF DIVISION OF CORRECTION.

25 THE DIVISION MAY EXERCISE ANY AUTHORITY NECESSARY TO PERFORM
26 PROPERLY ANY OF ITS DUTIES OR FUNCTIONS UNDER THIS SUBTITLE.

27 REVISOR'S NOTE: This section is new language derived without substantive
28 change from former Art. 27, § 681M.

29 The former reference to the Division's "powers" is deleted as implicit in the
30 reference to the Division's "authority".

31 The former reference to the duties and functions "evolving upon or
32 required of the Division" by this subtitle is deleted as implicit in the
33 reference to the Division's duties and functions "under this subtitle".

34 Defined term: "Division" § 3-101

1 3-505. GENERAL MANAGER.

2 THE SECRETARY SHALL APPOINT A GENERAL MANAGER WITH THE APPROVAL
3 OF THE ADVISORY COMMITTEE.

4 REVISOR'S NOTE: This section is new language derived without substantive
5 change from former Art. 27, § 681K(c).

6 Defined terms: "Advisory Committee" § 3-501

7 "General Manager" § 3-501

8 "Secretary" § 1-101

9 3-506. STAFF.

10 (A) IN GENERAL.

11 (1) THE GENERAL MANAGER:

12 (I) SHALL DETERMINE THE PERSONNEL REQUIREMENTS OF
13 STATE USE INDUSTRIES; AND

14 (II) IS THE APPOINTING AUTHORITY FOR ALL PERSONNEL OF
15 STATE USE INDUSTRIES.

16 (2) THE NUMBER OF POSITIONS FOR STATE USE INDUSTRIES SHALL BE
17 INCLUDED WITHIN THE TOTAL PERSONNEL ALLOCATIONS PROVIDED FOR THE
18 DEPARTMENT.

19 (B) PERSONNEL CLASSIFICATION.

20 EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION OR ANY OTHER
21 LAW, EACH POSITION IN STATE USE INDUSTRIES IS A SPECIAL APPOINTMENT IN THE
22 STATE PERSONNEL MANAGEMENT SYSTEM.

23 (C) OFFICE SECRETARIES AND OFFICE CLERKS.

24 UNLESS THE EMPLOYEE IS A SPECIAL APPOINTMENT, EACH OFFICE CLERK
25 AND OFFICE SECRETARY POSITION IN STATE USE INDUSTRIES IS IN THE SKILLED
26 SERVICE EMPLOYMENT CATEGORY OF THE STATE PERSONNEL MANAGEMENT
27 SYSTEM.

28 REVISOR'S NOTE: This section is new language derived without substantive
29 change from former Art. 27, §§ 681J and 681K(b).

30 In subsection (a)(1) of this section, the former reference to the "authority"
31 of the General Manager to determine the personnel needs of State Use
32 Industries is revised as an affirmative duty to state expressly that which
33 was only implied in the former law.

34 In subsection (a)(1)(i) of this section, the former reference to the personnel
35 "needs" of State Use Industries is deleted as implicit in the reference to the

1 personnel "requirements" of State Use Industries.

2 Also in subsection (a)(1)(i) of this section, the former reference to the
3 personnel requirements of "programs and product and service industries"
4 is deleted as implicit in the broad reference to the personnel requirements
5 of "State Use Industries".

6 In subsection (a)(1)(ii) of this section, the former reference to "subordinate"
7 personnel is deleted as unnecessary because all personnel in State Use
8 Industries are subordinate to the General Manager.

9 In subsection (a)(2) of this section, the reference to "personnel" allocations
10 is substituted for the former reference to "manpower" allocations for
11 consistency with subsection (a)(1) of this section.

12 Since employees of State Use Industries continue to be affected by Ch. 22,
13 Acts of 1993, § 3 and Ch. 33, Acts of 1994, § 3, the substance of those
14 provisions was reenacted by Ch. _____, Acts of 1999, which also enacted
15 this revision.

16 The Correctional Services Article Review Committee notes, for
17 consideration by the General Assembly, that the first clause of subsection
18 (c) of this section is apparently obsolete. None of the office secretaries or
19 office clerks currently employed by State Use Industries are "special
20 appointments". According to the General Manager of State Use Industries
21 and the Department of Public Safety and Correctional Services, it is
22 unlikely that office secretaries or office clerks would ever be special
23 appointments. If this clause has any meaning, it would be to allow the
24 Secretary to designate the position identification number (PIN) of a
25 particular office clerk or office secretary as a special appointment. If this is
26 not what the General Assembly intended, the General Assembly may wish
27 to repeal the clause, "[u]nless the employee is a special appointment" in
28 subsection (c) of this section.

29 Defined terms: "Department" § 1-101

30 "General Manager" § 3-501

31 3-507. BUDGET; FUNDING.

32 (A) BUDGET.

33 THE DEPARTMENT SHALL INCLUDE THE BUDGET FOR STATE USE INDUSTRIES
34 IN THE DEPARTMENT'S BUDGET.

35 (B) FUNDING.

36 (1) STATE USE INDUSTRIES MAY ESTABLISH A REVOLVING FUND TO
37 CONTAIN AN AMOUNT THAT THE TREASURER APPROVES.

1 (2) THE REVOLVING FUND MAY BE USED FOR GENERAL OPERATING
2 EXPENSES AND THE PURCHASE OF CAPITAL ASSETS.

3 (3) THE REVOLVING FUND ESTABLISHED UNDER PARAGRAPH (1) OF
4 THIS SUBSECTION IS NOT SUBJECT TO § 7-302 OF THE STATE FINANCE AND
5 PROCUREMENT ARTICLE.

6 (4) STATE USE INDUSTRIES SHALL SUBMIT AN ANNUAL STATEMENT TO
7 THE COMPTROLLER AND THE TREASURER THAT PROVIDES AN ACCURATE AND
8 DETAILED ACCOUNTING OF ALL RECEIPTS AND DISBURSEMENTS FROM THE
9 REVOLVING FUND.

10 (C) GENERAL FUND REVENUES.

11 GENERAL FUND MONEY MAY BE APPROPRIATED TO STATE USE INDUSTRIES TO
12 BE USED FOR THE DIRECT EXPENSES OF TRAINING INMATES.

13 REVISOR'S NOTE: Subsections (a), (b)(1), (2), and (4), and (c) of this section are
14 new language derived without substantive change from former Art. 27, §§
15 681(G) and 681K(a).

16 Subsection (b)(3) of this section is new language added to state expressly
17 that which was only implied in the former law, i.e., revenue in the fund
18 does not revert to the State's general fund at the end of the fiscal year.

19 In subsection (a) of this section, the former reference to the State Use
20 Industries' budget being "subject to normal legislative review and
21 approval" is deleted as implicit in the requirement that the State Use
22 Industries budget be "includ[ed] ... in the Department's budget".

23 In subsection (b)(4) of this section, the requirement that fiscal records be
24 submitted on an annual basis is substituted for the former vague
25 requirement that such records be submitted "from time to time" to reflect
26 actual practice.

27 Defined terms: "Comptroller" § 1-101

28 "Department" § 1-101

29 "Inmate" § 1-101

30 "Treasurer" § 1-101

31 3-508. RECORDS; FINANCIAL STATEMENTS.

32 (A) IN GENERAL.

33 THE DIVISION SHALL:

34 (1) FORMULATE AN ACCOUNTING AND RECORD SYSTEM THAT AT ALL
35 TIMES INDICATES THE SOURCE, NATURE, AND EXTENT OF STATE USE INDUSTRIES'
36 PURCHASES AND SALES; AND

1 (2) MAINTAIN ACCOUNTING RECORDS AND PREPARE FINANCIAL
2 STATEMENTS IN ACCORDANCE WITH GENERALLY ACCEPTED ACCOUNTING
3 PRINCIPALS FOR ENTERPRISE FUND TYPE ACTIVITIES.

4 (B) ANNUAL FINANCIAL STATEMENT.

5 THE FINANCIAL STATEMENTS REQUIRED UNDER SUBSECTION (A)(2) OF THIS
6 SECTION SHALL BE PREPARED AND AVAILABLE FOR AUDIT PURPOSES NOT LATER
7 THAN 60 DAYS AFTER THE CLOSE OF EACH FISCAL YEAR.

8 REVISOR'S NOTE: This section is new language derived without substantive
9 change from former Art. 27, § 681-I(a).

10 In subsection (a)(1) of this section, the reference to "State Use Industries"
11 purchases and sales is substituted for the former reference to "its"
12 purchases and sales to state expressly that which was only implied in the
13 former law, i.e., subsection (a)(1) of this section applies to purchases and
14 sales made by State Use Industries and not to purchases and sales made
15 by the Division as a whole.

16 In subsection (b) of this section, the former reference to the
17 "Administration" is deleted as unnecessary in light of the specific reference
18 to "the Division" in subsection (a) of this section.

19 Defined term: "Division" § 3-101

20 3-509. ANNUAL REPORT.

21 (A) IN GENERAL.

22 ANNUALLY, THE DIVISION SHALL SUBMIT A COMPLETE FINANCIAL AND
23 OPERATIONAL REPORT OF STATE USE INDUSTRIES AND THE STATE USE INDUSTRIES
24 REVOLVING FUND TO:

25 (1) THE GOVERNOR;

26 (2) THE SECRETARY; AND

27 (3) THE SECRETARY OF BUDGET AND MANAGEMENT.

28 (B) CONTENTS.

29 THE REPORT REQUIRED UNDER SUBSECTION (A) OF THIS SECTION SHALL:

30 (1) BE IN THE SAME GENERAL FORM AS A REPORT BY THE DIVISION ON
31 ITS OPERATIONS AND PROGRAMS; AND

32 (2) INCLUDE INFORMATION ABOUT PRESENT AND PROJECTED
33 PERSONNEL AND COMPENSATION REQUIREMENTS OF STATE USE INDUSTRIES.

34 (C) USE OF DATA.

1 THE GOVERNOR, THE SECRETARY, AND THE SECRETARY OF BUDGET AND
2 MANAGEMENT MAY INCLUDE DATA FROM THE REPORT SUBMITTED UNDER THIS
3 SECTION IN THE PREPARATION OF THE BUDGET AND CAPITAL IMPROVEMENT BILL.

4 REVISOR'S NOTE: This section is new language derived without substantive
5 change from former Art. 27, § 681H.

6 In subsection (a) of this section, the reference to an "operational" report is
7 substituted for the former reference to a report on the "program of ...
8 operation" for brevity.

9 In subsection (b)(1) of this section, the former reference to the same
10 general "manner" of other reports is deleted as implicit in the reference to
11 the same general "form" of other reports.

12 In subsection (c) of this section, the former reference to "figures" is deleted
13 as included in the reference to "data".

14 Defined terms: "Division" § 3-101

15 "Secretary" § 1-101

16 3-510. AUDIT.

17 (A) IN GENERAL.

18 THE LEGISLATIVE AUDITOR SHALL CONDUCT AUDITS OF STATE USE
19 INDUSTRIES IN ACCORDANCE WITH TITLE 2, SUBTITLE 12, PART IV OF THE STATE
20 GOVERNMENT ARTICLE.

21 (B) FREQUENCY OF AUDITS.

22 THE LEGISLATIVE AUDITOR SHALL ADVISE OFFICIALS OF STATE USE
23 INDUSTRIES OF THE FREQUENCY OF AUDITS TO BE CONDUCTED.

24 (C) COSTS.

25 STATE USE INDUSTRIES SHALL BEAR THE COST OF THE FISCAL PORTION OF A
26 POST AUDIT EXAMINATION.

27 REVISOR'S NOTE: This section is new language derived without substantive
28 change from former Art. 27, § 681-I(b).

29 In subsection (a) of this section, the cross-reference to Title 2, Subtitle 12,
30 Part IV of the State Government Article, which relates to the Office of
31 Legislative Audits, is added to state expressly that which was only implied
32 in the former law.

33 In subsection (b) of this section, the first sentence of former Art. 27, §
34 681-I(b)(2) is deleted as unnecessary and obsolete in light of SG § 2-1220.
35 The part of the first sentence of former Art. 27, § 681-I(b)(2) that refers to
36 a "biennial" audit is obsolete in light of the current 3 year requirement in

1 SG § 2-1220. The part of the first sentence of former Art. 27, §
2 681B-I(b)(2) that gives the Legislative Auditor the authority to conduct an
3 "annual" audit is unnecessary because, under SG § 2-1220, the Legislative
4 Auditor has the authority to establish any audit schedule so long as an
5 audit is conducted "at least" once every 3 years. Prior to the enactment of
6 SG § 2-1220 in 1997, the Legislative Auditor was authorized to conduct
7 such audits at least once every 2 years. See Chapters 635 and 636, Acts of
8 1997.

9 3-511. PROGRAM DEVELOPMENT -- GOODS AND SERVICES.

10 THE COMMISSIONER AND GENERAL MANAGER MAY DEVELOP PROGRAMS TO
11 PROVIDE SERVICES OR PRODUCE GOODS USED BY:

- 12 (1) UNITS OF STATE GOVERNMENT;
- 13 (2) POLITICAL SUBDIVISIONS OF THE STATE;
- 14 (3) UNITS OF THE FEDERAL GOVERNMENT;
- 15 (4) UNITS OF OTHER STATES; OR
- 16 (5) POLITICAL SUBDIVISIONS OF OTHER STATES.

17 REVISOR'S NOTE: This section is new language derived without substantive
18 change from former Art. 27, § 681C(a)(1).

19 Defined terms: "Commissioner" § 3-101

20 "General Manager" § 3-501

21 "Political subdivision" § 3-501

22 "State" § 1-101

23 3-512. SAME -- UNIFORM STANDARDS.

24 (A) DEVELOPMENT OF STANDARDS.

25 IN ACCORDANCE WITH SUBSECTION (B) OF THIS SECTION AND AFTER
26 CONSULTING WITH THE DEPARTMENT OF GENERAL SERVICES, OTHER
27 CONTRACTING UNITS, AND POLITICAL SUBDIVISIONS, THE DIVISION AND STATE USE
28 INDUSTRIES SHALL ESTABLISH UNIFORM STANDARDS FOR QUALITY, QUANTITY,
29 STYLE, DESIGN, DELIVERY, SCHEDULING, AND PRICING.

30 (B) CRITERIA.

31 (1) THE UNIFORM STANDARDS DEVELOPED UNDER SUBSECTION (A) OF
32 THIS SECTION SHALL BE DESIGNED TO REFLECT PLANNED AND FORECASTED
33 PRODUCT LINES AND PRODUCTION OPERATIONS OF STATE USE INDUSTRIES,
34 COMMENSURATE WITH STATE USE INDUSTRIES' PRODUCTION ABILITY.

35 (2) AFTER REVIEW BY THE ADVISORY COMMITTEE, STATE USE
36 INDUSTRIES SHALL SEND THE STANDARDS TO THE APPROPRIATE CONTRACTING

1 UNITS FOR INCLUSION IN ANNUAL GOODS AND SERVICE PROCUREMENT
2 CONTRACTS.

3 REVISOR'S NOTE: This section is new language derived without substantive
4 change from former Art. 27, § 681C(b).

5 In subsection (b)(2) of this section, the requirement that "State Use
6 Industries" send the adopted standards to contracting units is added to
7 state expressly that which was only implied in the former law, i.e., State
8 Use Industries is the entity that is responsible for sending the adopted
9 standards.

10 Defined terms: "Advisory Committee" § 3-501

11 "Contracting unit" § 3-501

12 "Division" § 3-101

13 "Political subdivision" § 3-501

14 3-513. SAME -- OCCUPATIONAL EXPERIENCE.

15 (A) IN GENERAL.

16 IN ACCORDANCE WITH SUBSECTION (B)(1) OF THIS SECTION, THE
17 COMMISSIONER AND GENERAL MANAGER SHALL DEVELOP PROGRAMS TO PROVIDE
18 INMATES WITH OCCUPATIONAL EXPERIENCE TO COMPLEMENT PERSONNEL
19 DEVELOPMENT PLANS OF THE STATE DEPARTMENT OF EDUCATION AND OTHER
20 UNITS OF STATE GOVERNMENT SERVING INMATES IN THE DIVISION.

21 (B) CONSULTATIONS.

22 (1) IN ESTABLISHING PROGRAMS REQUIRED UNDER SUBSECTION (A) OF
23 THIS SECTION, THE COMMISSIONER AND GENERAL MANAGER SHALL CONSULT
24 WITH:

25 (I) THE ASSISTANT SECRETARY FOR THE DIVISION OF
26 EMPLOYMENT AND TRAINING, DEPARTMENT OF LABOR, LICENSING, AND
27 REGULATION;

28 (II) THE ASSISTANT STATE SUPERINTENDENT FOR THE DIVISION
29 OF CAREER TECHNOLOGY AND ADULT LEARNING, STATE DEPARTMENT OF
30 EDUCATION;

31 (III) THE COMMISSIONER OF THE DIVISION OF LABOR AND
32 INDUSTRY, DEPARTMENT OF LABOR, LICENSING, AND REGULATION; AND

33 (IV) THE DIRECTOR OF THE CORRECTIONAL EDUCATION PROGRAM,
34 STATE DEPARTMENT OF EDUCATION.

35 (2) THE INDIVIDUALS LISTED IN PARAGRAPH (1) OF THIS SUBSECTION
36 SHALL PROVIDE APPROPRIATE ASSISTANCE TO THE COMMISSIONER AND GENERAL
37 MANAGER IN CARRYING OUT THIS SECTION.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 27, § 681E.

3 In subsection (a) of this section, the former reference to inmates of
4 "institutions" of the Division is deleted as implicit in the reference to
5 inmates of the "Division".

6 Also in subsection (a) of this section, the reference to "personnel"
7 development plans is substituted for the former reference to "manpower"
8 development plans for consistency with § 3-506(a) of this subtitle.

9 The Correctional Services Article Review Committee notes, for
10 consideration by the General Assembly, that subsection (b) of this section
11 does not require the Commissioner and General Manager to consult with
12 the Advisory Committee despite § 3-521 of this subtitle, which requires the
13 Advisory Committee to advise State Use Industries, make
14 recommendations to State Use Industries, and review various aspects of
15 the operations of State Use Industries. The General Assembly may wish to
16 amend subsection (b) of this section to include the Advisory Committee in
17 this list of persons with whom the Commissioner and General Manager are
18 required to consult.

19 In subsection (b)(1)(ii) of this section, the reference to the "Division of
20 Career Technology and Adult Learning" is substituted for the former
21 reference to the "Division of Career and Technology Education" to reflect
22 the current name of the unit.

23 Defined terms: "Commissioner" § 3-101

24 "Division" § 3-101

25 "General Manager" § 3-501

26 "Inmate" § 1-101

27 3-514. COMPENSATION FOR INMATE LABOR.

28 (A) IN GENERAL.

29 THE COMMISSIONER AND GENERAL MANAGER SHALL ESTABLISH THE
30 COMPENSATION RATE FOR INMATE LABOR IN STATE USE INDUSTRIES, TAKING INTO
31 CONSIDERATION OTHER WAGE PAYMENTS AND INCENTIVES IN OTHER PROGRAMS.

32 (B) REGULATIONS GOVERNING PAYMENTS.

33 AFTER REVIEW BY THE ADVISORY COMMITTEE, THE COMMISSIONER AND
34 GENERAL MANAGER SHALL ADOPT REGULATIONS THAT GOVERN THE METHOD AND
35 TIME OF COMPENSATION PAYMENTS.

36 REVISOR'S NOTE: This section is new language derived without substantive
37 change from former Art. 27, § 681F.

38 Subsection (b) of this section is revised to require review by the State Use

1 Industries Advisory Committee before the formal adoption of regulations to
2 state expressly that which was only implied in the former law, i.e., the
3 Advisory Committee must be provided with an opportunity to review the
4 proposed regulations before the adoption of the regulations.

5 Also in subsection (b) of this section, the reference to "rules" and
6 regulations is deleted for consistency throughout this article. See General
7 Revisor's Note to this article.

8 The Correctional Services Article Review Committee notes, for
9 consideration by the General Assembly, that subsection (b) of this section
10 requires the Commissioner and the General Manager jointly to adopt
11 regulations. The Committee believes that the General Manager's role is
12 more properly to "recommend" the adoption of regulations. The General
13 Assembly may wish to amend subsection (b) of this section to require that
14 the General Manager recommend proposed regulations to the
15 Commissioner and that the Commissioner adopt regulations. The
16 Committee further notes that the "regulations" that are required to be
17 adopted under this section have not been published in COMAR, but
18 appear in State Use Industries' internal documents.

19 Defined terms: "Advisory Committee" § 3-501

20 "Commissioner" § 3-101

21 "General Manager" § 3-501

22 "Inmate" § 1-101

23 3-515. PROCUREMENT.

24 (A) IN GENERAL.

25 A UNIT OF STATE GOVERNMENT SHALL PURCHASE FROM STATE USE
26 INDUSTRIES ANY GOODS OR SERVICES THAT ARE AVAILABLE FROM STATE USE
27 INDUSTRIES AND THAT STATE USE INDUSTRIES CAN PROVIDE AT A PRICE NOT
28 EXCEEDING THE PREVAILING AVERAGE MARKET PRICE AS DETERMINED BY THE
29 DEPARTMENT OF GENERAL SERVICES.

30 (B) PURCHASES THROUGH PRIMARY PROCUREMENT UNITS.

31 (1) THE CONTRACTING UNIT SHALL INFORM EACH UNIT OF STATE
32 GOVERNMENT FOR WHICH IT PROCURES GOODS OR SERVICES WITHIN 60 DAYS
33 AFTER THE AWARD OF A CONTRACT.

34 (2) QUARTERLY, EACH UNIT THAT REQUIRES GOODS OR SERVICES FOR
35 ITS OPERATIONS SHALL INFORM STATE USE INDUSTRIES OF ITS ANTICIPATED
36 ORDERS DURING THE NEXT 3-MONTH PERIOD.

37 (3) IF STATE USE INDUSTRIES IS UNABLE TO PROVIDE ANY OF THE
38 GOODS OR SERVICES UNDER THE CONTRACT, STATE USE INDUSTRIES SHALL NOTIFY
39 THE CONTRACTING UNIT SO THAT APPROPRIATE ALTERNATIVE ACTION MAY BE

1 TAKEN TO MEET THE NEEDS OF UNITS OF STATE GOVERNMENT FOR WHICH THE
2 CONTRACTING UNIT PROCURES GOODS OR SERVICES.

3 (C) SUSPENSION OF PROVISIONS.

4 THE BOARD OF PUBLIC WORKS:

5 (1) SHALL SUSPEND THE APPLICATION OF SUBSECTION (A) OF THIS
6 SECTION IF THE BOARD OF PUBLIC WORKS FINDS THAT THE PURPOSES OF DIVISION
7 II OF THE STATE FINANCE AND PROCUREMENT ARTICLE ARE BEING UNDULY
8 ERODED DUE TO THE VOLUME AND SCOPE OF ACTIVITIES AND SALES BY STATE USE
9 INDUSTRIES; AND

10 (2) MAY SUSPEND THE APPLICATION OF SUBSECTION (A) OF THIS
11 SECTION FOR DATA ENTRY SERVICES THAT INVOLVE INFORMATION THAT IS
12 PROTECTED FROM DISCLOSURE UNDER TITLE 10, SUBTITLE 6, PART III OF THE STATE
13 GOVERNMENT ARTICLE.

14 REVISOR'S NOTE: This section is new language derived without substantive
15 change from former Art. 27, § 681C(a)(2) and (3) and (c).

16 In subsections (a) and (b) of this section, references to goods "or" services
17 are substituted for former references to goods "and" services to clarify that
18 a contracting unit may purchase goods, services, or both from State Use
19 Industries.

20 The Correctional Services Article Review Committee notes, for
21 consideration by the General Assembly, that the language of subsection
22 (b)(1) of this section does not reflect current practice. Currently, State Use
23 Industries contracts with the Department of General Services to supply
24 certain products at particular prices. There is no "award of a contract" by
25 the Department of General Services in the sense that State agencies are
26 obligated to buy any products. The Department of General Services
27 distributes a catalogue to other State agencies that lists particular
28 products available from State Use Industries at particular prices. Again,
29 there is no "contract" in the sense that State agencies are obligated to buy
30 any products. The General Assembly may wish to amend subsection (b)(1)
31 of this section to reflect current practice.

32 In subsection (b)(3) of this section, the requirement that "State Use
33 Industries" notify a contracting unit is added to state expressly that which
34 was only implied in the former phrase "the contracting agency will be
35 notified".

36 Former Art. 27, § 681C(a)(3)(i), which is revised in subsection (c)(1) of this
37 section, authorized suspension of former Art. 27, § 681C(a), which is
38 revised in § 3-511 of this subtitle and subsections (a) and (c) of this section.
39 Subsection (c)(1) is revised to clarify that, under the circumstances
40 specified in subsection (c)(1), the Board may suspend the requirement set
41 forth in subsection (a) of this section that a unit of State government

1 purchase goods and services from State Use Industries if those goods and
2 services are available from State Use Industries at a price not exceeding
3 the prevailing average market price. Subsection (c)(1) does not refer to §
4 3-511 and subsection (c)(2) of this section because these provisions are not
5 relevant to the Board's suspension authority under subsection (c)(1).

6 Former Art. 27, § 681C(a)(3)(ii), which is revised in subsection (c)(2) of this
7 section, authorized suspension of former Art. 27, § 681C(a)(2)(i), which is
8 revised in subsection (a) of this section along with former Art. 27, §
9 681C(a)(2)(ii). Subsection (c)(2) is revised to clarify that, under the
10 circumstances specified in subsection (c)(2), the Board may suspend the
11 requirement set forth in subsection (a) of this section that a unit of State
12 government purchase goods and services from State Use Industries if
13 those goods and services are available from State Use Industries at a price
14 not exceeding the prevailing average market price. This revision states
15 expressly that which was only implied in the former law, i.e., the
16 requirements of former Art. 27, § 681C(a)(2)(ii) regarding the prevailing
17 average market price cannot be separated from the requirement of former
18 Art. 27, § 681C(a)(2)(i) regarding the purchase of goods and services from
19 State Use Industries.

20 Defined term: "Contracting unit" § 3-501

21 3-516. SALES ON OPEN MARKET.

22 (A) IN GENERAL.

23 EXCEPT AS AUTHORIZED UNDER SUBSECTION (B) OF THIS SECTION, GOODS
24 AND SERVICES OF STATE USE INDUSTRIES MAY NOT BE SOLD ON THE OPEN MARKET.

25 (B) EXCEPTIONS.

26 GOODS AND SERVICES OF STATE USE INDUSTRIES MAY BE SOLD ON THE OPEN
27 MARKET:

28 (1) IF THEY ARE PRODUCED OR PROVIDED BY AN INDIVIDUAL ON
29 PAROLE OR IN A WORK RELEASE PROGRAM;

30 (2) IF THE SALE IS MADE TO A CHARITABLE, CIVIC, EDUCATIONAL,
31 FRATERNAL, OR RELIGIOUS AGENCY, ASSOCIATION, OR INSTITUTION FOR ITS OWN
32 USE AND NOT FOR RESALE WITHIN 1 YEAR OF THE PURCHASE;

33 (3) TO A PERSON FOR NATIONAL DEFENSE PURPOSES IF NOT
34 PROHIBITED BY AN ACT OF CONGRESS;

35 (4) IF THEY ARE SURPLUS GOODS REMAINING AFTER MEETING THE
36 FORECASTED REQUIREMENTS OF UNITS OF STATE GOVERNMENT AND POLITICAL
37 SUBDIVISIONS AND THE GOODS REMAIN UNSOLD 1 YEAR AFTER BEING PRODUCED;

1 (5) FOR USE BY A CONTRACTOR OR SUBCONTRACTOR IN PERFORMANCE
2 OF A CONTRACT WITH A UNIT OF STATE GOVERNMENT OR ANY OTHER
3 GOVERNMENTAL UNIT IN THE STATE; OR

4 (6) AS ALLOWED UNDER THE PRIVATE SECTOR/PRISON INDUSTRY
5 ENHANCEMENT CERTIFICATION PROGRAM OF THE UNITED STATES DEPARTMENT OF
6 JUSTICE, BUREAU OF JUSTICE ASSISTANCE.

7 REVISOR'S NOTE: This section is new language derived without substantive
8 change from former Art. 27, § 681D.

9 In subsection (a) of this section, the term "goods" is substituted for the
10 former term "products" for consistency within this subtitle.

11 In subsection (b)(1) of this section, the reference to services "provided" is
12 added to state expressly that which was only implied in the former law.

13 Also in subsection (b)(1) of this section, the former reference to an
14 individual in a work release "(type)" program is deleted. The Correctional
15 Services Article Review Committee believes that this reference is
16 unnecessary. However, this reference might have been intended to include
17 an individual in home-detention, minimum security, or a prerelease
18 program. If so, the General Assembly may wish to amend subsection (b)(1)
19 of this section to specifically refer to inmates in these types of programs.

20 In subsection (b)(4) of this section, the reference to goods that remain
21 unsold "1 year after being produced" is added to state expressly that which
22 was only implied in the former reference to goods that remain unsold
23 "after 1 year".

24 Defined terms: "Person" § 1-101

25 "Political subdivision" § 3-501

26 3-517. STATE USE INDUSTRIES ADVISORY COMMITTEE -- ESTABLISHED.

27 THERE IS A STATE USE INDUSTRIES ADVISORY COMMITTEE IN THE DIVISION.

28 REVISOR'S NOTE: This section is new language derived without substantive
29 change from former Art. 27, § 681A(a).

30 This section is revised using standard language for the creation of a State
31 unit.

32 Defined term: "Division" § 3-101

33 3-518. SAME -- MEMBERSHIP.

34 (A) COMPOSITION; APPOINTMENT OF MEMBERS.

35 THE ADVISORY COMMITTEE CONSISTS OF THE FOLLOWING 16 MEMBERS OR
36 THEIR RESPECTIVE DESIGNEES:

- 1 (1) THE COMMISSIONER;
- 2 (2) THE COMPTROLLER;
- 3 (3) THE SECRETARY OF GENERAL SERVICES;
- 4 (4) A MEMBER OF THE HOUSE OF DELEGATES, APPOINTED BY THE
5 SPEAKER OF THE HOUSE;
- 6 (5) A MEMBER OF THE SENATE, APPOINTED BY THE PRESIDENT OF THE
7 SENATE;
- 8 (6) THE SECRETARY OF HIGHER EDUCATION;
- 9 (7) THE CHANCELLOR OF THE UNIVERSITY SYSTEM OF MARYLAND;
- 10 (8) THE STATE SUPERINTENDENT OF SCHOOLS;
- 11 (9) THE SECRETARY OF BUSINESS AND ECONOMIC DEVELOPMENT;
- 12 (10) THE SECRETARY OF BUDGET AND MANAGEMENT;
- 13 (11) THE SECRETARY OF AGRICULTURE;
- 14 (12) THE DIRECTOR OF THE PATUXENT INSTITUTION; AND
- 15 (13) FOUR REPRESENTATIVES OF PRIVATE INDUSTRY, APPOINTED BY
16 THE GOVERNOR IN ACCORDANCE WITH SUBSECTIONS (B) AND (C) OF THIS SECTION.
- 17 (B) QUALIFICATIONS OF INDUSTRY REPRESENTATIVES.
- 18 OF THE FOUR PRIVATE INDUSTRY MEMBERS APPOINTED UNDER SUBSECTION
19 (A)(13) OF THIS SECTION:
- 20 (1) TWO SHALL BE REPRESENTATIVES OF MANAGEMENT; AND
- 21 (2) TWO SHALL BE REPRESENTATIVES OF ORGANIZED LABOR.
- 22 (C) TERMS; APPOINTMENT OF SUCCESSORS.
- 23 (1) THE TERM OF A MEMBER APPOINTED UNDER SUBSECTION (A)(13) OF
24 THIS SECTION IS 3 YEARS.
- 25 (2) AT THE END OF A TERM THE MEMBER CONTINUES TO SERVE UNTIL A
26 SUCCESSOR IS APPOINTED AND QUALIFIES.
- 27 (3) A MEMBER APPOINTED AFTER A TERM HAS BEGUN SERVES ONLY
28 FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND
29 QUALIFIES.

1 REVISOR'S NOTE: Subsections (a), (b), and (c)(1) and (3) of this section are new
2 language derived without substantive change from former Art. 27, §
3 681A(b)(1) and (3).

4 Subsection (c)(2) of this section is standard language added to avoid gaps
5 in membership by indicating that a member serves until a successor takes
6 office. This addition is supported by the holdings in Benson v. Mellor, 152
7 Md. 481 (1927), and Grooms v. LaVale Zoning Board, 27 Md. App. 266
8 (1975).

9 In subsection (a)(1) of this section, the former reference to the
10 Commissioner serving as an "ex officio member" is deleted for consistency
11 within this subsection. Twelve of the 16 members of the Advisory
12 Committee serve on the Committee in an ex officio capacity, i.e., because
13 they hold designated offices.

14 In subsection (a)(4) and (5) of this section, references to "a member of the
15 House of Delegates, appointed by the Speaker" and "a member of the
16 Senate, appointed by the President" are substituted for the former
17 reference to "[t]wo members of the General Assembly, one ... appointed by
18 the Speaker ... and one ... appointed by the President" for clarity.

19 In subsection (c)(1) of this section, the former reference to a member's term
20 beginning on "July 1, 1981" is deleted as obsolete. The terms of the four
21 representatives of private industry serving on the Committee as of October
22 1, 1999 end on June 30, 2002. This revision is not intended to alter these
23 terms.

24 In subsection (c)(3) of this section, the former reference to a "vacancy
25 [being] filled in the same manner as for an original appointment" is
26 deleted as implicit.

27 Defined terms: "Advisory Committee" § 3-501

28 "Commissioner" § 3-101

29 "Comptroller" § 1-101

30 3-519. SAME -- CHAIRPERSON; EXECUTIVE SECRETARY.

31 (A) CHAIRPERSON.

32 (1) THE ADVISORY COMMITTEE ANNUALLY SHALL ELECT A
33 CHAIRPERSON.

34 (2) THE MANNER OF ELECTION SHALL BE AS THE ADVISORY
35 COMMITTEE DETERMINES.

36 (B) EXECUTIVE SECRETARY.

37 THE GENERAL MANAGER IS THE EXECUTIVE SECRETARY TO THE ADVISORY
38 COMMITTEE.

1 REVISOR'S NOTE: Subsections (a)(1) and (b) of this section are new language
2 derived without substantive change from former Art. 27, § 681A(b)(4).

3 Subsection (a)(2) of this section is standard language added to clarify the
4 manner of election of the Chairperson.

5 Defined terms: "Advisory Committee" § 3-501

6 "General Manager" § 3-501

7 3-520. SAME -- MEETINGS; REIMBURSEMENT FOR EXPENSES.

8 (A) MEETINGS.

9 THE ADVISORY COMMITTEE SHALL DETERMINE THE TIMES AND PLACES OF ITS
10 MEETINGS.

11 (B) REIMBURSEMENT FOR EXPENSES.

12 A MEMBER OF THE ADVISORY COMMITTEE:

13 (1) MAY NOT RECEIVE COMPENSATION FOR MEMBERSHIP ON THE
14 ADVISORY COMMITTEE; BUT

15 (2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE
16 STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

17 REVISOR'S NOTE: Subsection (a) of this section is standard language added for
18 clarity.

19 Subsection (b) of this section is new language derived without substantive
20 change from former Art. 27, § 681A(b)(2).

21 In subsection (b)(1) of this section, the phrase "for membership on the
22 Advisory Committee" is substituted for the former phrase "for such
23 services" for clarity.

24 In subsection (b)(2) of this section, the reference to "Standard State Travel
25 Regulations" is substituted for the former reference to "necessary expenses
26 while serving as members of the [Advisory] Committee" to reflect that,
27 under SF § 10-203, the Board of Public Works has adopted regulations for
28 reimbursement of expenses. See COMAR 23.02.01.01 through .12.

29 Defined term: "Advisory Committee" § 3-501

30 3-521. SAME -- MISCELLANEOUS DUTIES.

31 (A) PROGRAMS AND FACILITIES.

32 (1) THE ADVISORY COMMITTEE SHALL:

1 (I) ADVISE STATE USE INDUSTRIES ON ITS SPECIFIC PROPOSALS
2 TO ESTABLISH NEW INDUSTRIES AND IMPROVE THE QUALITY AND QUANTITY OF JOB
3 TRAINING PROGRAMS; AND

4 (II) RECOMMEND THE ESTABLISHMENT AND MAINTENANCE OF
5 INDUSTRIAL PLANTS AND SERVICE CENTERS TO BE USED FOR IMPLEMENTING THE
6 PROGRAMS DEVELOPED BY THE COMMISSIONER AND GENERAL MANAGER UNDER §
7 3-511 OF THIS SUBTITLE.

8 (2) STATE USE INDUSTRIES SHALL OPERATE INDUSTRIAL PLANTS AND
9 SERVICE CENTERS RECOMMENDED UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION
10 PRIMARILY WITH INMATES IN A MANNER THAT BENEFITS THE STATE AND THE
11 TRAINING OF INMATES BY PRODUCING GOODS OR PROVIDING SERVICES THAT ARE
12 PRACTICAL AND ADAPTABLE FOR A PRISON INDUSTRY.

13 (B) OPERATIONS.

14 THE ADVISORY COMMITTEE SHALL:

15 (1) REVIEW THE OPERATION OF STATE USE INDUSTRIES' PROGRAMS TO
16 DETERMINE WHETHER THERE IS UNDUE COMPETITION WITH PRIVATE ENTERPRISE
17 AND RECOMMEND NECESSARY ADJUSTMENTS TO PREVENT UNDUE COMPETITION;

18 (2) REVIEW THE STANDARDS FOR GOODS AND SERVICES AND THE
19 PRICING SCHEDULES AS RECOMMENDED BY THE GENERAL MANAGER; AND

20 (3) REVIEW THE OCCUPATIONAL HEALTH AND SAFETY RECORD OF
21 STATE USE INDUSTRIES' PROGRAMS.

22 (C) INMATES.

23 THE ADVISORY COMMITTEE SHALL:

24 (1) REVIEW THE SUCCESS OF STATE USE INDUSTRIES IN:

25 (I) MEETING THE EMPLOYABILITY DEVELOPMENT NEEDS OF
26 INMATES; AND

27 (II) COORDINATING WORK PROGRAMS WITH OTHER
28 REHABILITATIVE PROGRAMS; AND

29 (2) SOLICIT AND REVIEW INFORMATION PERTAINING TO CONCERNS OF
30 PARTICIPATING INMATES.

31 (D) NAME CHANGE.

32 THE ADVISORY COMMITTEE MAY CHANGE THE NAME OF STATE USE
33 INDUSTRIES TO A NAME MORE APPROPRIATE FOR A JOB TRAINING ORGANIZATION.

34 REVISOR'S NOTE: This section is new language derived without substantive
35 change from former Art. 27, § 681B(1) through (7).

1 In subsection (a)(1)(ii) of this section, the former reference to the various
2 entities likely to need goods and services is deleted as unnecessary because
3 the same list appears in § 3-511 of this subtitle.

4 In subsection (a)(2) of this section, the former reference to "manufacturing
5 ... [and] processing" goods is deleted as implicit in the reference to
6 "producing" goods.

7 In subsection (b)(2) of this section, the term "goods" is substituted for the
8 former term "product" for consistency within this subtitle.

9 Subsection (d) of this section is revised to give the Advisory Committee
10 discretion to rename State Use Industries because there is no evidence
11 that the legislature intended to mandate that the name of State Use
12 Industries be changed.

13 Defined terms: "Advisory Committee" § 3-501

14 "Commissioner" § 3-101

15 "General Manager" § 3-501

16 "Inmate" § 1-101

17 3-522. SAME -- ANNUAL REPORT.

18 WITHIN 90 DAYS AFTER THE CLOSE OF THE FISCAL YEAR, THE ADVISORY
19 COMMITTEE SHALL SUBMIT TO THE GOVERNOR AND, SUBJECT TO § 2-1246 OF THE
20 STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY AN ANNUAL REPORT
21 SUMMARIZING THE STATUS OF STATE USE INDUSTRIES IN RELATION TO THE ITEMS
22 SET FORTH UNDER § 3-521 OF THIS SUBTITLE.

23 REVISOR'S NOTE: This section is new language derived without substantive
24 change from former Art. 27, § 681B(8).

25 Defined term: "Advisory Committee" § 3-501

26 SUBTITLE 6. INMATES -- CASE RECORDS; DISCIPLINARY ACTION; PROPERTY;
27 FINANCIAL ACCOUNTS.

28 3-601. CASE RECORD; PROCESSING OF INMATE.

29 (A) CASE RECORD.

30 PROMPTLY AFTER AN INMATE IS SENTENCED TO THE JURISDICTION OF THE
31 DIVISION, THE DIVISION SHALL ASSEMBLE AN ADEQUATE CASE RECORD FOR THE
32 INMATE THAT INCLUDES:

33 (1) A DESCRIPTION OF THE INMATE;

34 (2) A PHOTOGRAPH OF THE INMATE;

35 (3) THE FAMILY HISTORY OF THE INMATE;

1 (4) ANY PREVIOUS RECORD OF THE INMATE;

2 (5) A SUMMARY OF THE FACTS OF EACH CASE FOR WHICH THE INMATE
3 IS SERVING A SENTENCE; AND

4 (6) THE RESULTS OF THE PHYSICAL, MENTAL, AND EDUCATIONAL
5 EXAMINATION OF THE INMATE REQUIRED UNDER SUBSECTION (B) OF THIS SECTION.

6 (B) EXAMINATION AFTER SENTENCING.

7 THE DIVISION SHALL CONDUCT A PHYSICAL, MENTAL, AND EDUCATIONAL
8 EXAMINATION OF AN INMATE AS SOON AS FEASIBLE AFTER THE INDIVIDUAL IS
9 SENTENCED TO THE JURISDICTION OF THE DIVISION.

10 (C) CLASSIFICATION AND ASSIGNMENT OF INMATE.

11 BASED ON THE INFORMATION ASSEMBLED UNDER SUBSECTION (A) OF THIS
12 SECTION, THE DIVISION SHALL CLASSIFY AN INMATE AND ASSIGN THE INMATE TO
13 ANY AVAILABLE TREATMENT, TRAINING, OR EMPLOYMENT THAT THE DIVISION
14 CONSIDERS APPROPRIATE.

15 (D) INMATE CONDUCT.

16 IN ACCORDANCE WITH REGULATIONS ADOPTED BY THE DIVISION, THE
17 MANAGING OFFICIAL OF EACH CORRECTIONAL FACILITY SHALL MAINTAIN, AS A
18 PART OF AN INMATE'S CASE RECORD:

19 (1) AN ADEQUATE RECORD OF THE CONDUCT, EFFORT, AND PROGRESS
20 OF THE INMATE DURING CONFINEMENT; AND

21 (2) A RECORD OF THE CHARACTER OF ANY OFFENSE COMMITTED BY
22 THE INMATE AND THE NATURE AND AMOUNT OF PUNISHMENT INFLICTED.

23 (E) PHOTOGRAPH.

24 TO IDENTIFY AN INMATE, THE DIVISION MAY PHOTOGRAPH AND FINGERPRINT
25 THE INMATE AND RECORD A DESCRIPTION OF THE INMATE'S PERSONAL
26 BACKGROUND DATA.

27 REVISOR'S NOTE: This section is new language derived without substantive
28 change from former Art. 27, § 691(b), the first and second sentences and
29 first clause of the third sentence of (a), and § 692, as it related to inmate
30 conduct.

31 In the introductory language of subsection (a) of this section, the former
32 reference to "necessary information" is deleted as surplusage in light of the
33 specific enumeration of required information in subsection (a)(1) through
34 (6) of this section.

35 Also in the introductory language of subsection (a) of this section, the
36 former reference to the duty to "prepare" a case record is deleted as

1 included in the reference to the duty to "assemble" a case record.

2 In subsection (a)(2) of this section, the former reference to "photographs" is
3 deleted as included in the reference to a "photograph" in light of Art. 1, § 8
4 of the Code, which provides that the singular generally includes the plural.

5 In subsection (c) of this section, the references to "the Division" are added
6 to state expressly that which was only implied in the former law, i.e., the
7 Division is the entity that classifies and assigns inmates to treatment,
8 training, and employment.

9 In the introductory language of subsection (d) of this section, the reference
10 to the duty to "maintain" an adequate record is substituted for the former
11 reference to the duty to "keep and preserve" an adequate record for brevity
12 and consistency with §§ 3-602(a), 3-603, 3-604(a), 3-605, 3-606, and
13 3-607(a) of this subtitle.

14 Also in the introductory language of subsection (d) of this section, the
15 phrase "as a part of an inmate's case record" is added to state expressly
16 that which was only implied in the former law.

17 Defined terms: "Correctional facility" § 1-101

18 "Division" § 3-101

19 "Inmate" § 1-101

20 "Managing official" § 1-101

21 3-602. DISCLOSURE OF CASE RECORD.

22 (A) PROHIBITION.

23 EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, THE CONTENTS OF A
24 CASE RECORD MAINTAINED UNDER § 3-601 OF THIS SUBTITLE MAY NOT BE
25 DISCLOSED.

26 (B) EXCEPTIONS.

27 THE CONTENTS OF A CASE RECORD MAY BE DISCLOSED:

28 (1) IF THE RECORD IS NECESSARY TO ENSURE PROPER MEDICAL
29 TREATMENT, TO A PROVIDER OF MEDICAL SERVICES TO THE INMATE;

30 (2) TO THE INMATE'S ATTORNEY;

31 (3) TO A PERSON AUTHORIZED BY A COURT ORDER;

32 (4) TO A PERSON EXPRESSLY AUTHORIZED BY LAW;

33 (5) TO A JUDGE OF A STATE COURT;

34 (6) TO A STATE'S ATTORNEY; AND

1 (7) ON WRITTEN REQUEST:

2 (I) TO AN EMPLOYEE OF ANY STATE UNIT OR A FEDERAL OR
3 LOCAL LAW ENFORCEMENT UNIT, IF DISCLOSURE IS IN FURTHERANCE OF THE
4 EMPLOYEE'S LAWFUL DUTIES; AND

5 (II) TO A PERSON WHO HAS WRITTEN AUTHORIZATION FOR THE
6 DISCLOSURE FROM THE INMATE.

7 (C) CONDITIONS FOR DISCLOSURE.

8 EXCEPT FOR A DISCLOSURE UNDER SUBSECTION (B)(5) OR (6) OF THIS SECTION,
9 AN INMATE'S CASE RECORD MAY BE DISCLOSED ONLY IF THE MANAGING OFFICIAL
10 OF THE CORRECTIONAL FACILITY:

11 (1) APPROVES THE DISCLOSURE; AND

12 (2) IS SATISFIED THAT:

13 (I) EACH APPLICABLE CONDITION SET FORTH IN SUBSECTION (B)
14 OF THIS SECTION HAS BEEN MET;

15 (II) THE RECORD WILL BE USED SOLELY FOR THE LEGITIMATE
16 PURPOSES OF THE PERSON OR GOVERNMENTAL UNIT THAT RECEIVES IT AND NOT
17 FOR ANY IMPROPER OR UNAUTHORIZED PURPOSE; AND

18 (III) THE RECORD WILL NOT BE FURTHER DISSEMINATED TO A
19 PERSON OR GOVERNMENTAL UNIT NOT AUTHORIZED TO RECEIVE IT.

20 (D) REGULATIONS.

21 THE COMMISSIONER SHALL ADOPT REGULATIONS IN ACCORDANCE WITH THIS
22 SECTION TO ESTABLISH PROCEDURES THAT GOVERN THE DISCLOSURE OF AN
23 INMATE'S CASE RECORD.

24 REVISOR'S NOTE: This section is new language derived without substantive
25 change from former Art. 27, § 695(a), (b), and (c).

26 In subsection (a) of this section, the reference to "maintained" is
27 substituted for the former reference to "prepared" for consistency with §§
28 3-601(d), 3-603, 3-604(a), 3-606, and 3-607(a) of this subtitle.

29 Also in subsection (a) of this section, the reference to except "as otherwise
30 provided in this subtitle" is substituted for the former limited reference to
31 the exceptions revised in subsection (b) of this section to reflect the other
32 exceptions found in this subtitle. See, e.g., §§ 3-604, 3-607, 3-608, and
33 3-609 of this subtitle.

34 In subsection (b)(7)(i) of this section, the reference to a State "unit" is
35 substituted for the former reference to a State "department or agency" for
36 consistency throughout this article. See General Revisor's Note to this

1 article.

2 Also in subsection (b)(7)(i) of this section, the former reference to a "State"
3 law enforcement agency is deleted as included in the reference to "any
4 State unit".

5 The Correctional Services Article Review Committee notes, for
6 consideration by the General Assembly, that subsection (b)(7)(i) of this
7 section allows disclosure of a case record to an employee of the Patuxent
8 Institution only after the Division has received a written request for
9 disclosure. The General Assembly may wish to amend subsection (b) of this
10 section to allow disclosure of a case record to an employee of the Patuxent
11 Institution without a written request.

12 The Correctional Services Article Review Committee also notes, for
13 consideration by the General Assembly, that subsection (b)(7)(i) of this
14 section allows disclosure of a case record, on written request, to an
15 employee of a federal or local "law enforcement" unit but is silent as to
16 disclosure to an employee of a federal or local "correctional" unit. The
17 General Assembly may wish to amend subsection (b)(7)(i) of this section to
18 allow disclosure to an employee of a federal or local correctional unit if
19 disclosure is in furtherance of the employee's lawful duties. Compare §
20 4-209(e)(6) of this article; see also § 3-606 of this subtitle and
21 accompanying Revisor's Note.

22 In subsection (b)(7)(ii) of this section, the reference to a person who has
23 written authorization "for the disclosure" from the inmate is added to state
24 expressly that which was formerly only implied in the reference to "written
25 authorization".

26 In subsection (d) of this section, the reference to "adopt[ing]" regulations is
27 substituted for the former reference to "promulgat[ing]" regulations for
28 consistency throughout this article. See General Revisor's Note to this
29 article.

30 Also in subsection (d) of this section, the former reference to "rules" is
31 deleted as unnecessary in light of the reference to "regulations". See
32 General Revisor's Note to this article.

33 Defined terms: "Commissioner" § 3-101

34 "Correctional facility" § 1-101

35 "Managing official" § 1-101

36 "Inmate" § 1-101

37 "Person" § 1-101

38 3-603. PROVIDING CASE RECORD TO PAROLE COMMISSION.

39 THE MANAGING OFFICIAL OF A CORRECTIONAL FACILITY SHALL PRESENT A
40 COPY OF AN INMATE'S CASE RECORD MAINTAINED UNDER § 3-601 OF THIS SUBTITLE,
41 OR A SUMMARY OF THE RECORD, TO THE MARYLAND PAROLE COMMISSION:

1 (1) BY THE TIME THE INMATE BECOMES ELIGIBLE FOR PAROLE; AND

2 (2) AT OTHER TIMES ON REQUEST.

3 REVISOR'S NOTE: This section is new language derived without substantive
4 change from the second clause of the third sentence of former Art. 27, §
5 691(a).

6 This section is revised in the active voice to clarify that the managing
7 official of each correctional facility has the responsibility to present the
8 case record of each inmate to the Maryland Parole Commissioner.

9 In the introductory language of this section, the reference to the "case
10 record maintained under § 3-601 of this subtitle" is substituted for the
11 former reference to the "case and institutional records" for clarity. See also
12 §§ 3-606 and 3-607(a) of this subtitle.

13 Also in the introductory language of this section, the reference to the
14 "Maryland Parole Commission" is substituted for the former reference to
15 the "parole authority" for accuracy. See Title 7 of this article.

16 Defined terms: "Correctional facility" § 1-101

17 "Inmate" § 1-101

18 "Managing official" § 1-101

19 3-604. STATE REIMBURSEMENT FOR COST OF PROVIDING CASE RECORD.

20 (A) IN GENERAL.

21 IF AN INMATE IS GRANTED A REHEARING OR NEW TRIAL BY A COURT
22 ASSERTING JURISDICTION OVER AN OFFENSE FOR WHICH THE INMATE IS CONFINED
23 AND THE CASE RECORD MAINTAINED UNDER § 3-601 OF THIS SUBTITLE MUST BE
24 PROVIDED TO THE COURT OR A CORRECTIONAL FACILITY TO WHICH THE INMATE IS
25 TRANSFERRED, THE STATE SHALL REIMBURSE THE CORRECTIONAL FACILITY OR
26 POLITICAL SUBDIVISION FOR THE COST OF PROVIDING THE RECORD.

27 (B) METHOD OF REIMBURSEMENT.

28 THE STATE SHALL MAKE THE PAYMENT DESCRIBED UNDER SUBSECTION (A) OF
29 THIS SECTION:

30 (1) THROUGH THE ADMINISTRATIVE OFFICE OF THE COURTS;

31 (2) AFTER PROPER CERTIFICATION; AND

32 (3) ON A MONTHLY BASIS.

33 REVISOR'S NOTE: This section is new language derived without substantive
34 change from former Art. 27, § 695(d).

1 Defined terms: "Correctional facility" § 1-101

2 "Inmate" § 1-101

3 3-605. ADMISSIBILITY OF CASE RECORD IN EVIDENCE.

4 IF, IN THE TRIAL OF A CRIMINAL CASE, THE FACT THAT AN INDIVIDUAL WAS
5 PREVIOUSLY CONVICTED OF A CRIME IS ADMISSIBLE IN EVIDENCE, THE CASE
6 RECORD MAINTAINED UNDER § 3-601 OF THIS SUBTITLE IS ADMISSIBLE IN EVIDENCE
7 TO PROVE THE FACT OF THE CONVICTION AND OF THE CRIME FOR WHICH THE
8 INDIVIDUAL WAS CONVICTED.

9 REVISOR'S NOTE: This section is new language derived without substantive
10 change from former Art. 27, § 695(e).

11 The reference to "maintained" is substituted for the former reference to
12 "prepared" for consistency with §§ 3-601(d), 3-602(a), 3-603, 3-604(a),
13 3-606, and 3-607(a) of this subtitle.

14 The references to the conviction of an "individual" for a crime are
15 substituted for the former references to the conviction of a "person"
16 because only human beings, and not the other entities included in the
17 defined term "person", can be sentenced to the jurisdiction of the Division
18 of Correction. See § 1-101 of this article for the definition of "person".

19 3-606. PROVIDING CASE RECORD TO ANOTHER STATE.

20 ON REQUEST, THE DIVISION SHALL PROVIDE A COPY OF A CASE RECORD
21 MAINTAINED UNDER § 3-601 OF THIS SUBTITLE TO A MANAGING OFFICIAL OF A
22 CORRECTIONAL FACILITY IN ANOTHER STATE IF THAT STATE HAS MADE
23 RECIPROCAL PROVISIONS BY LAW FOR PROVIDING RECORDS OF ITS CONVICTED
24 CRIMINALS TO THE AUTHORITIES OF OTHER STATES.

25 REVISOR'S NOTE: This section is new language derived without substantive
26 change from former Art. 27, § 696.

27 This section is revised in the active voice to clarify that the Division has
28 the responsibility to provide records of inmates to managing officials of
29 correctional facilities in other states.

30 The reference to "a case record maintained under § 3-601 of this subtitle"
31 is substituted for the former reference to "such record" for clarity. Former
32 Art. 27, §§ 695 and 696 were both enacted by Ch. 123, Acts of 1962. As
33 originally enacted in 1962, former Art. 27, § 695 referred to "the record
34 herein provided". As amended by Ch. 123, Acts of 1982, former Art. 27, §
35 695 referred specifically to a "case record prepared under § 691 of this
36 article". Former Art. 27, § 691 is revised in §§ 3-601 and 3-603 of this
37 subtitle. Presumably, the reference in former Art. 27, § 696 to "such record"
38 referred back to the reference in former Art. 27, § 695.

39 The Correctional Services Article Review Committee notes, for

1 consideration by the General Assembly, that this section is silent about
2 whether the Division has the duty to provide a case record to the managing
3 official of a federal or local correctional facility. The General Assembly may
4 wish to impose a duty on the Division to provide a case record, on request,
5 to the managing official of a federal or local correctional facility. See also §
6 3-602(b)(7)(i) of this subtitle and accompanying Revisor's Note.

7 Defined terms: "Correctional facility" § 1-101

8 "Division" § 3-101

9 "Managing official" § 1-101

10 "State" § 1-101

11 3-607. PROVIDING CASE RECORD AND OTHER INFORMATION TO LOCAL POLICE.

12 (A) IN GENERAL.

13 THE DIVISION SHALL PROVIDE A COPY OF A CASE RECORD MAINTAINED UNDER
14 § 3-601 OF THIS SUBTITLE TO A POLICE OFFICER WHO PRESENTS AN ORDER FOR A
15 COPY OF THE RECORD SIGNED BY THE SUPERINTENDENT OR OTHER OFFICER IN
16 CHARGE OF POLICE IN A MUNICIPAL CORPORATION OR COUNTY.

17 (B) LIST OF INMATES WHOSE SENTENCES EXPIRE.

18 ON OR BEFORE THE 28TH DAY OF EACH MONTH, THE DIVISION SHALL PROVIDE
19 TO THE SUPERINTENDENT OR OTHER OFFICER IN CHARGE OF POLICE IN THE
20 MUNICIPAL CORPORATION OR COUNTY FROM WHICH THE INMATE WAS COMMITTED
21 THE FOLLOWING INFORMATION ABOUT EACH INMATE WHOSE SENTENCE EXPIRES
22 THE FOLLOWING MONTH:

23 (1) THE INMATE'S NAME;

24 (2) THE DATE WHEN THE INMATE'S SENTENCE COMMENCED;

25 (3) THE COUNTY FROM WHICH THE INMATE WAS COMMITTED;

26 (4) THE CRIME FOR WHICH THE INMATE WAS COMMITTED; AND

27 (5) THE EXACT DATE WHEN THE INMATE WILL BE DISCHARGED.

28 REVISOR'S NOTE: This section is new language derived without substantive
29 change from former Art. 27, § 697.

30 In subsection (a) and the introductory language of subsection (b) of this
31 section, the references to a "municipal corporation" are substituted for the
32 former references to a "city" to conform to Md. Constitution, Art. XI-E.

33 Also in subsection (a) and the introductory language of subsection (b) of
34 this section, the references to the "Division" are substituted for the former
35 obsolete references to the "Department". The former "Department of
36 Correctional Services" was reorganized as the "Division of Correction" in

1 1970. See Ch. 401, Acts of 1970.

2 In subsection (a) of this section, the reference to "a case record maintained
3 under § 3-601 of this subtitle" is substituted for the former reference to
4 "such record kept by it" for clarity. Former Art. 27, §§ 695 and 697 were
5 enacted by Ch. 123, Acts of 1962. As originally enacted in 1962, former Art.
6 27, § 695 referred to "the record herein provided". As amended by Ch. 123,
7 Acts of 1982, former Art. 27, § 695 referred specifically to a "case record
8 prepared under § 691 of this article". Former Art. 27, § 691 is revised in §§
9 3-601 and 3-603 of this subtitle. Presumably, the reference in former Art.
10 27, § 697 to "such record kept by it" referred back to the reference in former
11 Art. 27, § 695.

12 The Correctional Services Article Review Committee notes, for
13 consideration by the General Assembly, that, in practice, the information
14 that the Division is required to provide to police departments under
15 subsection (b) of this section is made available electronically to municipal
16 corporations and counties through the Criminal Justice Information
17 System after an inmate is released. Any authorized user of the System can
18 access the referenced information.

19 In subsection (b)(3) of this section, the former reference to the "city" from
20 which the inmate was committed is deleted because the Division's
21 longstanding practice is to interpret the reference to "city" to mean
22 "Baltimore City", which is included as a "county" under § 1-101 of this
23 article. The Correctional Services Article Review Committee calls this
24 deletion to the attention of the General Assembly because the word "city"
25 arguably could refer to the various municipal corporations of the State.

26 Defined terms: "County" § 1-101

27 "Division" § 3-101

28 "Inmate" § 1-101

29 3-608. EXCHANGE OF INFORMATION.

30 (A) IN GENERAL.

31 TO INCREASE EFFICIENCY IN THE TREATMENT, MANAGEMENT, AND
32 REHABILITATION OF INMATES CONFINED IN CORRECTIONAL FACILITIES IN THE
33 DIVISION, THE DIVISION AND THE DIVISION OF PAROLE AND PROBATION SHALL
34 EXCHANGE RECORDS AND ANY OTHER PERTINENT INFORMATION THAT RELATES TO
35 AN INMATE.

36 (B) PROCEDURES AND METHODS.

37 THE DIVISION AND THE DIVISION OF PAROLE AND PROBATION SHALL
38 ESTABLISH THE PROCEDURES AND METHODS FOR THE EXCHANGE OF RECORDS AND
39 OTHER INFORMATION DESCRIBED IN SUBSECTION (A) OF THIS SECTION.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 27, § 701.

3 In subsection (a) of this section, the reference to correctional facilities "in"
4 the Division is substituted for the former reference to correctional facilities
5 "under the control of" the Division for consistency throughout this article.
6 See General Revisor's Note to this article.

7 Also in subsection (a) of this section, the reference to an "exchange" of case
8 records and other information is substituted for the former reference to a
9 "full and complete interchange" for brevity.

10 Defined terms: "Correctional facility" § 1-101

11 "Division" § 3-101

12 "Inmate" § 1-101

13 3-609. PERSONAL PROPERTY OF INMATE.

14 (A) PROPERTY IN POSSESSION OF DIVISION.

15 (1) THE DIVISION SHALL HOLD FOR 30 DAYS ANY PERSONAL PROPERTY
16 OF AN INMATE THAT COMES INTO THE POSSESSION OF THE DIVISION:

17 (I) AS THE RESULT OF AN ESCAPE BY THE INMATE; OR

18 (II) BECAUSE THE PERSONAL PROPERTY HAS BEEN UNCLAIMED BY
19 AN INMATE WHO HAS THE RIGHT TO ITS POSSESSION.

20 (2) DURING THE 30-DAY HOLDING PERIOD, THE DIVISION SHALL POST
21 NOTICE IN A CONSPICUOUS LOCATION IN THE CORRECTIONAL FACILITY WHERE THE
22 PROPERTY INITIALLY WAS FOUND.

23 (3) THE DIVISION SHALL DELIVER PERSONAL PROPERTY BEING HELD
24 BY THE DIVISION TO AN INMATE IF:

25 (I) THE PROPERTY IS CLAIMED WITHIN THE 30-DAY HOLDING
26 PERIOD;

27 (II) THE INMATE SATISFACTORILY ESTABLISHES A RIGHT TO
28 POSSESSION OF THE PROPERTY; AND

29 (III) THE INMATE GIVES A PROPER RECEIPT FOR THE PROPERTY.

30 (B) CONTRABAND.

31 (1) THE COMMISSIONER SHALL ADOPT REGULATIONS:

32 (I) TO DEFINE WHAT PROPERTY CONSTITUTES CONTRABAND IN
33 THE CORRECTIONAL FACILITIES IN THE DIVISION; AND

1 (II) TO ESTABLISH PROCEDURES FOR THE CONFISCATION OF
2 CONTRABAND BY STAFF OF THE CORRECTIONAL FACILITIES.

3 (2) AN INMATE WHOSE PROPERTY IS CONFISCATED AS CONTRABAND
4 SHALL BE NOTIFIED OF THE RIGHT TO HAVE THE PROPERTY REMOVED FROM THE
5 CORRECTIONAL FACILITY OR SENT TO A PERSON OUTSIDE THE CORRECTIONAL
6 FACILITY AT THE INMATE'S EXPENSE.

7 (3) IF AN INMATE FAILS TO HAVE PROPERTY REMOVED FROM OR SENT
8 OUTSIDE THE CORRECTIONAL FACILITY WITHIN 30 DAYS AFTER RECEIPT OF NOTICE
9 OF CONFISCATION, THE PROPERTY SHALL BE DEEMED ABANDONED PROPERTY
10 UNDER SUBSECTION (C)(2) AND (3) OF THIS SECTION.

11 (C) ABANDONED PROPERTY.

12 (1) PERSONAL PROPERTY THAT IS UNCLAIMED WITHIN THE 30-DAY
13 HOLDING PERIOD ESTABLISHED UNDER SUBSECTION (A) OF THIS SECTION SHALL BE
14 DEEMED ABANDONED PROPERTY.

15 (2) ABANDONED PROPERTY MAY BE CONVERTED TO THE USE OF THE
16 DIVISION, SOLD, OR OTHERWISE DISPOSED OF IN ACCORDANCE WITH PROCEDURES
17 ESTABLISHED BY THE COMMISSIONER.

18 (3) ALL CLAIMS TO ABANDONED PROPERTY ARE ABSOLUTELY BARRED.

19 (D) CONSTRUCTION AND EFFECT OF SECTION.

20 (1) THIS SECTION DOES NOT CREATE OR RECOGNIZE ANY CAUSE,
21 ACTION, OR DEFENSE OR ABRIDGE ANY IMMUNITY OF THE DIVISION, THE
22 COMMISSIONER, OR ANY EMPLOYEE.

23 (2) THIS SECTION DOES NOT AFFECT THE AUTHORITY OF THE
24 CORRECTIONAL FACILITIES IN THE DIVISION TO SEIZE AND DISPOSE OF PERSONAL
25 PROPERTY THAT IS CONTRABAND PER SE IN ACCORDANCE WITH APPLICABLE LAW.

26 REVISOR'S NOTE: This section is new language derived without substantive
27 change from former Art. 27, § 678A.

28 Subsection (a)(2) and (3) of this section is revised to state expressly that
29 which was only implied in the former law, i.e., the Division is the entity
30 that is responsible for posting a notice about property that comes into the
31 possession of the Division and delivering personal property to an inmate
32 under the specified circumstances.

33 In subsection (b)(3) of this section, the reference to "receipt of" notice is
34 added to state expressly that which was only implied in the former
35 reference to "notice".

36 In subsection (d)(2) of this section, the former word "limit" is deleted as
37 included in the more general word "affect".

1 Defined terms: "Commissioner" § 3-101

2 "Correctional facility" § 1-101

3 "Division" § 3-101

4 "Inmate" § 1-101

5 "Person" § 1-101

6 3-610. FINANCIAL ACCOUNTS OF INMATES.

7 (A) IN GENERAL.

8 A CORRECTIONAL FACILITY IN THE DIVISION SHALL MAINTAIN A RESERVE
9 FINANCIAL ACCOUNT AND A SPENDING FINANCIAL ACCOUNT FOR EACH INMATE IN
10 THE CORRECTIONAL FACILITY.

11 (B) CHARGES AGAINST ACCOUNTS.

12 THE ACCOUNTS OF AN INMATE MAY BE CHARGED FOR:

13 (1) THE REASONABLE VALUE OF ANY STATE PROPERTY THAT THE
14 INMATE:

15 (I) WILLFULLY OR MALICIOUSLY DESTROYS; OR

16 (II) DESTROYS AS THE RESULT OF GROSS NEGLIGENCE; OR

17 (2) ANY FEES ASSESSED UNDER § 2-118 OF THIS ARTICLE.

18 (C) REGULATIONS.

19 THE COMMISSIONER SHALL ADOPT REGULATIONS THAT:

20 (1) SET FORTH THOSE ITEMS THAT MAY BE CREDITED TO OR DISBURSED
21 FROM AN ACCOUNT UNDER THIS SECTION; AND

22 (2) SET FORTH PROCEDURES FOR CARRYING OUT THIS SECTION,
23 INCLUDING PROCEDURES THAT PROVIDE DUE PROCESS OF LAW TO EACH INMATE
24 BEFORE THE INMATE'S ACCOUNTS MAY BE CHARGED WITH A DISBURSEMENT UNDER
25 SUBSECTION (B) OF THIS SECTION.

26 REVISOR'S NOTE: This section is new language derived without substantive
27 change from former Art. 27, § 678B.

28 Former Art. 27, § 678B(b)(2), which is revised in subsection (b)(2) of this
29 section, referred to "fees" assessed under former Art. 41, § 4-104. Under
30 former Art. 41, § 4-104(i), which is revised in § 2-118 of this article, the
31 Secretary of Public Safety and Correctional Services was required to assess
32 a reasonable fee, not to exceed \$4.00, to cover the cost of certain medical
33 expenses. There were no other fees assessed under former Art. 41, § 4-104.
34 Therefore, subsection (b)(2) of this section refers only to § 2-118 of this
35 article and not to §§ 2-104, 2-107, and 2-109 through 2-115 of this article,
36 which are based on other provisions of former Art. 41, § 4-104. No

1 substantive change is intended.

2 In the introductory language of subsection (c) of this section, the former
3 reference to "rules" is deleted as unnecessary in light of the term
4 "regulations". See General Revisor's Note to this article.

5 Defined terms: "Commissioner" § 3-101

6 "Correctional facility" § 1-101

7 "Division" § 3-101

8 "Inmate" § 1-101

9 SUBTITLE 7. DIMINUTION CREDITS.

10 3-701. "TERM OF CONFINEMENT" DEFINED.

11 IN THIS SUBTITLE, "TERM OF CONFINEMENT" MEANS:

12 (1) THE LENGTH OF THE SENTENCE, FOR A SINGLE SENTENCE; OR

13 (2) THE PERIOD FROM THE FIRST DAY OF THE SENTENCE THAT BEGINS
14 FIRST THROUGH THE LAST DAY OF THE SENTENCE THAT ENDS LAST, FOR:

15 (I) CONCURRENT SENTENCES;

16 (II) PARTIALLY CONCURRENT SENTENCES;

17 (III) CONSECUTIVE SENTENCES; OR

18 (IV) A COMBINATION OF CONCURRENT AND CONSECUTIVE
19 SENTENCES.

20 REVISOR'S NOTE: This section is new language derived without substantive
21 change from former Art. 27, § 700(a).

22 3-702. INMATES ENTITLED TO DIMINUTION CREDITS.

23 SUBJECT TO § 3-711 OF THIS SUBTITLE AND TITLE 7, SUBTITLE 5 OF THIS
24 ARTICLE, AN INMATE COMMITTED TO THE CUSTODY OF THE COMMISSIONER IS
25 ENTITLED TO A DIMINUTION OF THE INMATE'S TERM OF CONFINEMENT AS
26 PROVIDED UNDER THIS SUBTITLE.

27 REVISOR'S NOTE: This section is new language derived without substantive
28 change from former Art. 27, § 700(b).

29 Defined terms: "Commissioner" § 3-101

30 "Inmate" § 1-101

31 "Term of confinement" § 3-701

1 3-703. CONCURRENT SENTENCE IN FOREIGN JURISDICTION.

2 NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBTITLE, AN INMATE
3 WHO SERVES A CONCURRENT MARYLAND SENTENCE IN A FOREIGN JURISDICTION
4 MAY BE ALLOWED DIMINUTION CREDITS UNDER THIS SUBTITLE ONLY FROM THE
5 DATE THAT THE INMATE IS RECEIVED INTO THE PHYSICAL CUSTODY OF THE
6 COMMISSIONER.

7 REVISOR'S NOTE: This section is new language derived without substantive
8 change from former Art. 27, § 700(c).

9 The introductory clause "[n]otwithstanding any other provision of this
10 subtitle," is added to state expressly that which was only implied in the
11 former law, i.e., the requirements of this section apply to the award of
12 diminution credits under any of the provisions of this subtitle, including
13 credits for good conduct under § 3-704 of this subtitle.

14 The reference to "diminution" credits is added for consistency with
15 terminology used in §§ 3-709, 3-710, and 3-711 of this subtitle and Title
16 11, Subtitle 5 of this article.

17 Defined terms: "Commissioner" § 3-101

18 "Inmate" § 1-101

19 3-704. DIMINUTION CREDITS -- GOOD CONDUCT.

20 (A) IN GENERAL.

21 AN INMATE SHALL BE ALLOWED A DEDUCTION IN ADVANCE FROM THE
22 INMATE'S TERM OF CONFINEMENT.

23 (B) METHOD OF CALCULATION.

24 (1) THE DEDUCTION ALLOWED UNDER SUBSECTION (A) OF THIS
25 SECTION SHALL BE CALCULATED:

26 (I) FROM THE FIRST DAY OF COMMITMENT TO THE CUSTODY OF
27 THE COMMISSIONER THROUGH THE LAST DAY OF THE INMATE'S MAXIMUM TERM OF
28 CONFINEMENT;

29 (II) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,
30 AT THE RATE OF 10 DAYS FOR EACH CALENDAR MONTH; AND

31 (III) ON A PRORATED BASIS FOR ANY PORTION OF A CALENDAR
32 MONTH.

33 (2) IF AN INMATE'S TERM OF CONFINEMENT INCLUDES A CONSECUTIVE
34 OR CONCURRENT SENTENCE FOR A CRIME OF VIOLENCE AS DEFINED IN ARTICLE 27,
35 § 643B OF THE CODE OR A CRIME OF MANUFACTURING, DISTRIBUTING, DISPENSING,
36 OR POSSESSING A CONTROLLED DANGEROUS SUBSTANCE IN VIOLATION OF ARTICLE

1 27, § 286 OF THE CODE, THE DEDUCTION DESCRIBED IN SUBSECTION (A) OF THIS
2 SECTION SHALL BE CALCULATED AT THE RATE OF 5 DAYS FOR EACH CALENDAR
3 MONTH.

4 (C) EXEMPT PERIODS.

5 A DEDUCTION UNDER THIS SECTION MAY NOT BE ALLOWED FOR A PERIOD
6 DURING WHICH AN INMATE DOES NOT RECEIVE CREDIT FOR SERVICE OF THE
7 INMATE'S TERM OF CONFINEMENT, INCLUDING A PERIOD:

8 (1) DURING WHICH THE INMATE'S SENTENCE IS STAYED;

9 (2) DURING WHICH THE INMATE IS NOT IN THE CUSTODY OF THE
10 COMMISSIONER BECAUSE OF ESCAPE; OR

11 (3) FOR WHICH THE MARYLAND PAROLE COMMISSION HAS DECLINED
12 TO GRANT CREDIT AFTER REVOCATION OF PAROLE OR MANDATORY SUPERVISION.

13 REVISOR'S NOTE: This section is new language derived without substantive
14 change from former Art. 27, § 700(d).

15 In subsection (a) of this section, the language in former Art. 27, § 700(d)(1)
16 that made this section "subject to the inmate's future good conduct" is
17 deleted as unnecessary in light of § 3-709 of this subtitle, which provides
18 that diminution credits may be revoked for a violation of disciplinary rules.
19 No substantive change is intended.

20 The Correctional Services Article Review Committee notes, for
21 consideration by the General Assembly, that the reference to a "maximum"
22 term of confinement in subsection (b)(1)(i) of this section does not appear to
23 add anything to the meaning of "term of confinement" as defined in §
24 3-701 of this subtitle. The General Assembly may wish to delete the word
25 "maximum".

26 Defined terms: "Commissioner" § 3-101

27 "Inmate" § 1-101

28 "Term of confinement" § 3-701

29 3-705. SAME -- WORK TASKS.

30 (A) IN GENERAL.

31 (1) IN ADDITION TO ANY OTHER DEDUCTIONS ALLOWED UNDER THIS
32 SUBTITLE, AN INMATE MAY BE ALLOWED A DEDUCTION OF 5 DAYS FROM THE
33 INMATE'S TERM OF CONFINEMENT FOR EACH CALENDAR MONTH DURING WHICH
34 THE INMATE MANIFESTS SATISFACTORY PERFORMANCE OF ASSIGNED WORK TASKS.

35 (2) THE DEDUCTION DESCRIBED IN PARAGRAPH (1) OF THIS
36 SUBSECTION SHALL BE CALCULATED:

1 (I) FROM THE FIRST DAY THAT THE WORK TASK IS PERFORMED;
2 AND

3 (II) ON A PRORATED BASIS FOR ANY PORTION OF A CALENDAR
4 MONTH DURING WHICH THE INMATE PERFORMED THE WORK TASK.

5 (B) REGULATIONS.

6 THE COMMISSIONER SHALL ADOPT REGULATIONS GOVERNING THE
7 DETERMINATION OF DEDUCTIONS AUTHORIZED UNDER THIS SECTION.

8 REVISOR'S NOTE: This section is new language derived without substantive
9 change from former Art. 27, § 700(e).

10 In subsection (a)(1) of this section, the reference to deductions that are "[i]n
11 addition to any other deductions allowed under this subtitle" is added to
12 state expressly that which was only implied in the former reference to an
13 "additional" deduction.

14 Also in subsection (a)(1) of this section, the former reference to work tasks
15 assigned "to the inmate" is deleted as implicit in the reference to "assigned
16 work tasks".

17 In subsection (a)(2) of this section, the reference to how deductions "shall
18 be calculated" is substituted for the former reference to when deductions
19 "shall commence" for consistency with §§ 3-704(b) and 3-706(b) of this
20 subtitle.

21 For regulations adopted under subsection (b) of this section, see COMAR
22 12.02.06.05 and .06.

23 Defined terms: "Commissioner" § 3-101

24 "Inmate" § 1-101

25 "Term of confinement" § 3-701

26 3-706. SAME -- EDUCATION.

27 (A) IN GENERAL.

28 IN ADDITION TO ANY OTHER DEDUCTIONS ALLOWED UNDER THIS SUBTITLE,
29 AN INMATE MAY BE ALLOWED A DEDUCTION OF 5 DAYS FROM THE INMATE'S TERM
30 OF CONFINEMENT FOR EACH CALENDAR MONTH DURING WHICH THE INMATE
31 MANIFESTS SATISFACTORY PROGRESS IN:

32 (1) VOCATIONAL COURSES; OR

33 (2) OTHER EDUCATIONAL AND TRAINING COURSES.

34 (B) METHOD OF CALCULATION.

1 THE DEDUCTION DESCRIBED IN SUBSECTION (A) OF THIS SECTION SHALL BE
2 CALCULATED:

3 (1) FROM THE FIRST DAY THAT THE INMATE PARTICIPATES IN THE
4 COURSE; AND

5 (2) ON A PRORATED BASIS FOR ANY PORTION OF THE CALENDAR MONTH
6 DURING WHICH THE INMATE PARTICIPATES IN THE COURSE.

7 REVISOR'S NOTE: This section is new language derived without substantive
8 change from former Art. 27, § 700(f).

9 In subsection (a) of this section, the reference to deductions that are "[i]n
10 addition to any other deductions allowed under this subtitle" is added to
11 state expressly that which was only implied in the former reference to an
12 "additional" deduction.

13 In subsection (b) of this section, the reference to how deductions "shall be
14 calculated" is substituted for the former reference to when deductions
15 "shall commence" for consistency with §§ 3-704(b) and 3-705(a)(2) of this
16 subtitle.

17 Defined terms: "Inmate" § 1-101

18 "Term of confinement" § 3-701

19 3-707. SAME -- SPECIAL PROJECTS.

20 (A) IN GENERAL.

21 IN ADDITION TO ANY OTHER DEDUCTIONS ALLOWED UNDER THIS SUBTITLE,
22 AN INMATE MAY BE ALLOWED A DEDUCTION OF UP TO 10 DAYS FROM THE INMATE'S
23 TERM OF CONFINEMENT FOR EACH CALENDAR MONTH DURING WHICH THE INMATE
24 MANIFESTS SATISFACTORY PROGRESS IN THOSE SPECIAL SELECTED WORK
25 PROJECTS OR OTHER SPECIAL PROGRAMS DESIGNATED BY THE COMMISSIONER AND
26 APPROVED BY THE SECRETARY.

27 (B) METHOD OF CALCULATION.

28 A DEDUCTION DESCRIBED IN SUBSECTION (A) OF THIS SECTION SHALL BE
29 CALCULATED:

30 (1) FROM THE FIRST DAY THAT THE INMATE IS ASSIGNED TO THE WORK
31 PROJECT OR PROGRAM; AND

32 (2) ON A PRORATED BASIS FOR ANY PORTION OF THE CALENDAR MONTH
33 DURING WHICH THE INMATE PARTICIPATES IN THE WORK PROJECT OR PROGRAM.

34 REVISOR'S NOTE: This section is new language derived without substantive
35 change from former Art. 27, § 700(h).

36 In subsection (a) of this section, the reference to deductions that are "[i]n

1 addition to any other deductions allowed under this subtitle" is added to
2 state expressly that which was only implied in the former reference to an
3 "additional" deduction.

4 Defined terms: "Commissioner" § 3-101

5 "Inmate" § 1-101

6 "Secretary" § 1-101

7 "Term of confinement" § 3-701

8 3-708. LIMITATION ON TOTAL NUMBER OF DEDUCTIONS.

9 NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBTITLE, AN INMATE
10 MAY NOT BE ALLOWED A DEDUCTION UNDER THIS SUBTITLE OF MORE THAN 20 DAYS
11 FOR A CALENDAR MONTH.

12 REVISOR'S NOTE: This section is new language derived without substantive
13 change from former Art. 27, § 700(i).

14 The phrase "[n]otwithstanding any other provision of this subtitle" is
15 added to state expressly that which was only implied in the former law.

16 The reference to a "calendar" month is substituted for the former reference
17 to "any" month for consistency with §§ 3-704(b), 3-705(a), 3-706(a), and
18 3-707(a) of this subtitle.

19 Defined term: "Inmate" § 1-101

20 3-709. REVOCATION OF DIMINUTION CREDITS FOR VIOLATIONS OF RULES OF
21 DISCIPLINE.

22 (A) VIOLATION OF RULES OF DISCIPLINE.

23 IF AN INMATE VIOLATES THE APPLICABLE RULES OF DISCIPLINE, THE DIVISION
24 MAY REVOKE A PORTION OR ALL OF THE DIMINUTION CREDITS AWARDED UNDER §§
25 3-704 (GOOD CONDUCT) AND 3-707 (SPECIAL PROJECTS) OF THIS SUBTITLE
26 ACCORDING TO THE NATURE AND FREQUENCY OF THE VIOLATION.

27 (B) OTHER DEDUCTIONS NOT AFFECTED.

28 THIS SECTION DOES NOT AFFECT THE DIMINUTION CREDITS AWARDED UNDER
29 §§ 3-705 (WORK TASKS) AND 3-706 (EDUCATION) OF THIS SUBTITLE.

30 (C) RESTORATION OF CREDITS.

31 (1) THE DIVISION MAY RESTORE DIMINUTION CREDITS REVOKED
32 UNDER THIS SECTION.

33 (2) THE COMMISSIONER SHALL ADOPT REGULATIONS GOVERNING THE
34 RESTORATION OF REVOKED DIMINUTION CREDITS.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 27, § 700(g).

3 In subsections (a) and (b) of this section, the references to "diminution
4 credits" are substituted for the former references to "deductions" for
5 consistency with subsection (c) of this section, §§ 3-703, 3-710, and 3-711
6 of this subtitle, and Title 11, Subtitle 5 of this article.

7 Also in subsections (a) and (b) of this section, the references to diminution
8 credits that have been "awarded" are substituted for the former references
9 to diminution credits that have been "allowed" or "earned" for brevity and
10 for consistency with § 11-507 of this article. No substantive change is
11 intended.

12 In subsection (c) of this section, the references to "revoked" credits are
13 substituted for the former references to "forfeited" credits for consistency
14 with subsection (a) of this section.

15 Also in subsection (c) of this section, the former reference to "rules" is
16 deleted in light of the reference to "regulations". See General Revisor's
17 Note to this article.

18 Defined terms: "Commissioner" § 3-101

19 "Division" § 3-101

20 "Inmate" § 1-101

21 3-710. ADMITTANCE TO MENTAL HEALTH FACILITY.

22 IF AN INMATE IN THE PATUXENT INSTITUTION OR A CORRECTIONAL FACILITY
23 IN THE DIVISION IS ADMITTED TO A MENTAL HEALTH FACILITY UNDER § 10-614 OF
24 THE HEALTH - GENERAL ARTICLE, THE INMATE MAY BE ALLOWED DIMINUTION
25 CREDITS UNDER THIS SUBTITLE.

26 REVISOR'S NOTE: This section is new language derived without substantive
27 change from former Art. 27, § 700(j).

28 In this section, the reference to "diminution" credits is added for
29 consistency with §§ 3-703, 3-709, and 3-711 of this subtitle and Title 5,
30 Subtitle 11 of this article.

31 Also in this section, the reference to diminution credits that "may be
32 allowed" is substituted for the former reference to diminution credits that
33 "an inmate is eligible to earn" for consistency with § 3-703 of this subtitle.

34 Defined terms: "Correctional facility" § 1-101

35 "Division" § 3-101

36 "Inmate" § 1-101

1 3-711. EFFECT OF PAROLE VIOLATION ON DIMINUTION CREDITS.

2 IF AN INMATE IS CONVICTED AND SENTENCED TO IMPRISONMENT FOR A CRIME
3 COMMITTED WHILE ON PAROLE AND THE PAROLE IS REVOKED, DIMINUTION
4 CREDITS THAT WERE AWARDED BEFORE THE INMATE'S RELEASE ON PAROLE MAY
5 NOT BE APPLIED TOWARD THE INMATE'S TERM OF CONFINEMENT ON RETURN TO
6 THE DIVISION.

7 REVISOR'S NOTE: This section is new language derived without substantive
8 change from former Art. 27, § 700(k)(1).

9 The reference to diminution credits that were "awarded" is substituted for
10 the former reference to diminution credits that were "allowed" for
11 consistency with §§ 3-709 and 11-507 of this article.

12 Former Art. 27, § 700(k)(2), which provided that this section does not apply
13 to future credits, is deleted as unnecessary. By its terms, former Art. 27, §
14 700(k)(1), which is revised in this section, did not apply to diminution
15 credits earned following an inmate's return to the Division of Correction.

16 Defined terms: "Division" § 3-101

17 "Inmate" § 1-101

18 "Term of confinement" § 3-701

19 SUBTITLE 8. LEAVE.

20 3-801. WORK-RELEASE PROGRAM -- IN GENERAL.

21 (A) AUTHORITY TO ESTABLISH.

22 THE DIVISION MAY ESTABLISH A WORK-RELEASE PROGRAM.

23 (B) PURPOSE.

24 UNDER THE WORK-RELEASE PROGRAM, AN INMATE WHO IS SENTENCED TO
25 THE JURISDICTION OF THE DIVISION MAY BE GRANTED THE PRIVILEGE OF LEAVING
26 ACTUAL CONFINEMENT DURING NECESSARY AND REASONABLE HOURS:

27 (1) TO WORK AT GAINFUL PUBLIC OR PRIVATE EMPLOYMENT;

28 (2) TO ATTEND SCHOOL; OR

29 (3) UNDER APPROPRIATE CONDITIONS, TO SEEK EMPLOYMENT.

30 (C) INMATE'S APPLICATION.

31 (1) AN INMATE MAY APPLY TO THE WARDEN OF THE CORRECTIONAL
32 FACILITY IN WHICH THE INMATE IS CONFINED FOR PERMISSION TO PARTICIPATE IN
33 THE PROGRAM.

34 (2) AN APPLICATION SHALL INCLUDE:

1 (I) A STATEMENT BY THE INMATE THAT THE INMATE AGREES TO
 2 ABIDE BY ALL TERMS AND CONDITIONS OF THE PARTICULAR PLAN THAT THE
 3 COMMISSIONER OR THE COMMISSIONER'S DESIGNEE ADOPTS FOR THE INMATE;

4 (II) THE NAME AND ADDRESS OF A PROPOSED EMPLOYER OR
 5 SCHOOL TRAINING PROGRAM, IF ANY; AND

6 (III) ANY OTHER INFORMATION THAT THE DIVISION OR THE
 7 COMMISSIONER REQUIRES, INCLUDING THE INMATE'S AGREEMENT TO WAIVE THE
 8 RIGHT TO CONTEST EXTRADITION PROCEEDINGS.

9 (D) APPROVAL; ADOPTION OF WORK-RELEASE PLAN; REVOCATION.

10 (1) A WARDEN MAY RECOMMEND AN INMATE'S APPLICATION TO THE
 11 COMMISSIONER.

12 (2) THE COMMISSIONER OR THE COMMISSIONER'S DESIGNEE MAY
 13 APPROVE, DISAPPROVE, OR DEFER ACTION ON THE APPLICATION.

14 (3) IF AN INMATE'S APPLICATION IS APPROVED, THE COMMISSIONER OR
 15 THE COMMISSIONER'S DESIGNEE SHALL ADOPT A WORK-RELEASE PLAN FOR THE
 16 INMATE THAT:

17 (I) CONTAINS TERMS AND CONDITIONS THAT ARE NECESSARY
 18 AND PROPER;

19 (II) MAY INCLUDE THE INMATE'S WAIVER OF THE RIGHT TO
 20 CONTEST EXTRADITION PROCEEDINGS; AND

21 (III) IS SIGNED BY THE INMATE BEFORE THE INMATE PARTICIPATES
 22 IN THE WORK-RELEASE PROGRAM.

23 (4) AT ANY TIME AND FOR ANY REASON, THE COMMISSIONER MAY
 24 REVOKE APPROVAL FOR AN INMATE TO PARTICIPATE IN THE WORK-RELEASE
 25 PROGRAM.

26 REVISOR'S NOTE: This section is new language derived without substantive
 27 change from former Art. 27, § 700A(a) and (b).

28 In subsections (a), (b), and (c)(2)(iii) of this section, the defined term
 29 "Division" is substituted for the former references to "Department" and
 30 "Department of Correction" for accuracy. See General Revisor's Note to this
 31 subtitle.

32 In subsections (c)(1) and (d)(1) of this section, the former references to a
 33 "superintendent" are deleted as obsolete. Currently, there are no
 34 superintendent positions in the Division of Correction.

35 In subsection (c) of this section, the former reference to an inmate who is
 36 "eligible to participate in the `work-release' program in accordance with

1 the preceding subsection" is deleted as implicit in the reference to
2 "inmate".

3 In subsection (c)(2)(i) of this section, the former reference to an inmate's
4 agreement to abide by the terms and conditions of a plan that the
5 Commissioner adopts for the inmate "if [the inmate's] application is
6 approved" is deleted because it is implicit that the Commissioner will not
7 adopt a plan for the inmate unless the inmate's application has already
8 been approved.

9 In subsection (d)(2) of this section, the reference to the Commissioner's
10 discretion to approve, disapprove, or defer action on the "application" is
11 substituted for the former reference to the Commissioner's discretion to
12 approve, disapprove, or defer action on the "recommendation" for accuracy.
13 The Commissioner approves, disapproves, or defers action on an inmate's
14 application to participate in the work-release program, not on the
15 managing official's recommendation to approve the inmate's application.

16 The Correctional Services Article Review Committee notes, for
17 consideration by the General Assembly, that subsection (d)(3)(i) of this
18 section does not specify who makes the determination as to what is
19 "necessary and proper". The Committee further notes that the terms
20 "necessary" and "proper" may be redundant. The General Assembly may
21 wish to amend subsection (d)(3)(i) of this section to clarify who makes the
22 determination as to what is necessary and proper and to repeal the
23 reference to either "necessary" or "proper".

24 Subsection (d)(3)(ii) of this section is new language added for consistency
25 with §§ 3-802(b)(2), 3-807(d)(2)(iii), 3-808(b)(1)(i)2, 3-809(c)(1)(ii), and
26 3-810(c)(3) of this subtitle.

27 In subsection (d)(4) of this section, the reference to approval "for an inmate
28 to participate in the work-release program" is added to state expressly
29 that which was formerly only implied in the reference to "approval".

30 Defined terms: "Commissioner" § 3-101

31 "Correctional facility" § 1-101

32 "Division" § 3-101

33 "Inmate" § 1-101

34 3-802. SAME -- WEEKEND LEAVE.

35 (A) ELIGIBILITY FOR LEAVE.

36 THE COMMISSIONER MAY GRANT WEEKEND LEAVE TO AN INMATE IF:

37 (1) THE INMATE HAS PARTICIPATED FOR AT LEAST 2 MONTHS IN THE
38 WORK-RELEASE PROGRAM ESTABLISHED UNDER § 3-801 OF THIS SUBTITLE; AND

1 (2) THE INMATE'S DIRECT DIVISION SUPERVISOR IN THE
2 WORK-RELEASE PROGRAM RECOMMENDS THE INMATE FOR WEEKEND LEAVE.

3 (B) AUTHORIZATION FOR LEAVE.

4 THE COMMISSIONER SHALL:

5 (1) DETERMINE WHETHER TO GRANT AUTHORIZATION FOR WEEKEND
6 LEAVE; AND

7 (2) ESTABLISH TERMS AND CONDITIONS FOR WEEKEND LEAVE, WHICH
8 MAY INCLUDE THE INMATE'S WAIVER OF THE RIGHT TO CONTEST EXTRADITION
9 PROCEEDINGS.

10 (C) LENGTH OF LEAVE.

11 WEEKEND LEAVE MAY NOT BEGIN BEFORE 6 P.M. FRIDAY OR END AFTER 6 P.M.
12 ON THE SUNDAY THAT IMMEDIATELY FOLLOWS.

13 REVISOR'S NOTE: This section is new language derived without substantive
14 change from former Art. 27, § 700A(b-1).

15 In the introductory language of subsection (a) of this section, the reference
16 to "[t]he Commissioner['s]" discretion to grant leave is added for
17 consistency with subsection (b)(1) of this section.

18 In subsection (a)(2) of this section, the reference to the inmate's direct
19 "Division" supervisor is added to state expressly that which was only
20 implied in the former law, i.e., the recommendation must come from the
21 appropriate official in the Division and not from the inmate's work-release
22 employer. See also § 3-809(c)(1)(i)2 of this subtitle.

23 In subsection (b)(1) of this section, the former reference to "[f]inal"
24 authorization is deleted as implicit in the reference to "authorization".

25 In subsection (c) of this section, the former reference to a weekend
26 "consist[ing] of a period of time" is deleted as unnecessary in light of the
27 specific reference to particular times.

28 Also in subsection (c) of this section, the reference to weekend "leave" is
29 added to state expressly that which was formerly only implied in the
30 reference to "weekend".

31 Defined terms: "Commissioner" § 3-101

32 "Inmate" § 1-101

33 3-803. SAME -- HOUSING OF INMATES.

34 (A) IN GENERAL.

1 (1) THE DIVISION SHALL DESIGNATE CORRECTIONAL FACILITIES IN
2 THE DIVISION TO HOUSE INMATES IN THE WORK-RELEASE PROGRAM ESTABLISHED
3 UNDER § 3-801 OF THIS SUBTITLE.

4 (2) IF THE DESIGNATED FACILITIES ARE NOT REASONABLY NEAR THE
5 PLACE OF EMPLOYMENT OF AN INMATE WHO IS IN THE WORK-RELEASE PROGRAM,
6 THE DIVISION MAY CONTRACT WITH A POLITICAL SUBDIVISION OF THE STATE TO
7 HOUSE THE INMATE IN A SUITABLE LOCAL CORRECTIONAL FACILITY.

8 (3) THE COMMISSIONER SHALL INCLUDE AS A SPECIFIC TERM OR
9 CONDITION OF AN INMATE'S WORK-RELEASE PLAN THE PLACE WHERE THE INMATE
10 IS TO BE CONFINED WHEN NOT RELEASED UNDER THE WORK-RELEASE PROGRAM.

11 (B) FAILURE TO RETURN; PENALTY.

12 (1) AN INMATE WHO IS RELEASED FROM ACTUAL CONFINEMENT
13 UNDER A WORK-RELEASE PLAN MAY NOT WILLFULLY FAIL TO RETURN TO THE
14 DESIGNATED PLACE OF CONFINEMENT AT THE DESIGNATED TIMES.

15 (2) AN INMATE WHO VIOLATES PARAGRAPH (1) OF THIS SUBSECTION IS
16 GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO THE PENALTIES
17 ESTABLISHED UNDER ARTICLE 27, § 139 OF THE CODE.

18 REVISOR'S NOTE: This section is new language derived without substantive
19 change from former Art. 27, § 700A(c).

20 In subsection (a)(1) of this section, the defined term "Division" is
21 substituted for the former reference to "Department" for accuracy. See
22 General Revisor's Note to this subtitle.

23 Also in subsection (a)(1) of this section, the reference to "correctional
24 facilities" is substituted for the former reference to "facilities in the
25 institutions and camps" for consistency throughout this article and
26 because the reference to "camps" is obsolete. See § 1-101 of this article for
27 the definition of "correctional facility".

28 Also in subsection (a)(1) of this section, the reference to the Division's duty
29 to "adopt" facilities for the housing of inmates in the work-release program
30 is deleted as included in the broad reference to the Division's duty to
31 "designate" such facilities.

32 Also in subsection (a)(1) of this section, the reference to correctional
33 facilities "in" the Division is substituted for the former reference to
34 correctional facilities "under its jurisdiction" for consistency throughout
35 this article. See General Revisor's Note to this article.

36 In subsection (a)(2) of this section, the reference to a local "correctional"
37 facility is substituted for the former reference to a local "confinement"
38 facility for consistency throughout this article. See § 1-101 of this article
39 for the definition of "local correctional facility".

1 Also in subsection (a)(2) of this section, the reference to "hous[ing] ...
2 inmate[s]" is substituted for the former reference to "quartering ...
3 prisoner[s]" for consistency with subsection (a)(1) of this section.

4 Defined terms: "Commissioner" § 3-101

5 "Correctional facility" § 1-101

6 "Division" § 3-101

7 "Inmate" § 1-101

8 "Local correctional facility" § 1-101

9 3-804. SAME -- DISPOSITION OF EARNINGS.

10 (A) SURRENDER TO DIVISION.

11 AN INMATE WHO IS EMPLOYED IN THE COMMUNITY UNDER A WORK-RELEASE
12 PLAN SHALL SURRENDER TO THE DIVISION THE INMATE'S TOTAL EARNINGS LESS
13 ANY PAYROLL DEDUCTIONS REQUIRED BY LAW.

14 (B) DEDUCTIONS.

15 (1) THE DIVISION SHALL DEDUCT FROM THE INMATE'S EARNINGS IN
16 THE FOLLOWING ORDER OF PRIORITY:

17 (I) AN AMOUNT THE DIVISION DETERMINES TO BE THE COST TO
18 THE STATE OF PROVIDING FOOD, LODGING, AND CLOTHING FOR THE INMATE;

19 (II) FEES ASSESSED UNDER § 2-118 OF THIS ARTICLE;

20 (III) THE ACTUAL AND NECESSARY FOOD, TRAVEL, AND OTHER
21 EXPENSES OF THE INMATE WHEN RELEASED FROM ACTUAL CONFINEMENT UNDER
22 THE WORK-RELEASE PROGRAM;

23 (IV) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, ANY
24 AMOUNT THAT THE INMATE IS LEGALLY OBLIGATED TO PAY TO SUPPORT THE
25 INMATE'S DEPENDENTS; AND

26 (V) THE AMOUNT THAT A COURT ORDERS TO BE PAID AS
27 RESTITUTION.

28 (2) ANY BALANCE THAT REMAINS AFTER THE DEDUCTIONS ARE MADE
29 UNDER SUBSECTION (A) OF THIS SECTION SHALL BE:

30 (I) CREDITED TO THE INMATE'S ACCOUNT; AND

31 (II) PAID TO THE INMATE ON RELEASE.

32 (3) ANY AMOUNT DEDUCTED UNDER PARAGRAPH (1)(IV) OF THIS
33 SUBSECTION SHALL BE PAID TO AN INMATE'S DEPENDENTS THROUGH THE LOCAL
34 SOCIAL SERVICES ADMINISTRATION IN THE COUNTY IN WHICH THE DEPENDENTS
35 RESIDE.

1 (C) FINAL EARNINGS.

2 IF ANY PART OF THE INMATE'S FINAL EARNINGS UNDER A WORK-RELEASE
3 PLAN ARE REQUIRED TO SATISFY THE OBLIGATORY DEDUCTIONS SET FORTH IN
4 SUBSECTION (B) OF THIS SECTION, THE BALANCE OF THOSE EARNINGS SHALL BE
5 FORWARDED TO THE INMATE WITHIN 15 DAYS AFTER THE INMATE'S RELEASE FROM
6 THE DIVISION'S JURISDICTION.

7 REVISOR'S NOTE: This section is new language derived without substantive
8 change from former Art. 27, § 700A(d).

9 The second sentence of former Art. 27, § 700A(d), which is revised in
10 subsection (b)(1)(ii) of this section, referred to fees assessed under former
11 Art. 41, § 4-104. The only reference to fees in former Art. 41, § 4-104
12 appeared in subsection (i) of that section, which authorized the
13 Department of Public Safety and Correctional Services to assess a fee for
14 certain expenses relating to an inmate's medical care. Former Art. 41, §
15 4-104(i) is revised in § 2-118 of this article. In referring to the fees
16 assessed under § 2-118 of this article, subsection (b)(1)(ii) of this section is
17 technically narrower in scope than former Art. 27, § 700A(d). However, this
18 revision does not reflect a substantive change because the other provisions
19 of Art. 41, § 4-104, which are revised in §§ 2-104, 2-107, 2-109 through
20 2-115, and 2-118 of this article, do not authorize the assessment of any
21 fees.

22 In subsection (b)(1)(i) of this section, the reference to the "Division" is
23 added to state expressly that which was only implied in the former law,
24 i.e., the Division is responsible for determining the costs of food, lodging,
25 and clothing.

26 The Correctional Services Article Review Committee notes, for
27 consideration by the General Assembly, that subsection (b)(1)(iv) of this
28 section refers to amounts that an inmate is "legally obligated" to pay for
29 support of dependents. The Committee is uncertain as to whether this
30 provision applies only to support payments that are required by a "court
31 order" or whether it applies to any payments that an inmate is obligated to
32 pay, e.g., merely by virtue of being a parent. The General Assembly may
33 wish to clarify the meaning of this provision.

34 The Correctional Services Article Review Committee also notes, for
35 consideration by the General Assembly, that it is unclear whether the
36 reference to an inmate's "account" in subsection (b)(2)(i) of this section is to
37 an inmate's "reserve financial account", which is paid to the inmate on
38 final release from the Division, or to an inmate's "spending financial
39 account", which is available to the inmate during the inmate's term of
40 confinement. See § 3-610 of this article. The General Assembly may wish
41 to clarify the meaning of this provision.

42 In subsection (b)(2) of this section, the former reference to "payments" is

1 deleted as unnecessary in light of the broad reference to "deductions".

2 In subsection (b)(3) of this section, the former reference to a "city" is
3 deleted as unnecessary because Baltimore City is included in the defined
4 term "county". See § 1-101 of this article for the definition of "county".

5 The Correctional Services Article Review Committee notes, for
6 consideration by the General Assembly, that the meaning of the reference
7 to the "local social services administration" in subsection (b)(3) of this
8 section is unclear because many counties do not have a unit with that
9 name. The General Assembly may wish to amend this section to require
10 that payments be made through the "appropriate local agency". The
11 Committee is also uncertain as to how subsection (b)(3) applies when an
12 inmate's dependents reside outside the State. The General Assembly may
13 wish to clarify how the Division should handle payments to out-of-State
14 dependents.

15 In subsection (c) of this section, the reference to "any part of" an inmate's
16 final earnings is added to state expressly that which was only implied in
17 the former law, *i.e.*, some or all of an inmate's earnings might be needed to
18 satisfy the deductions required under subsection (b) of this section.

19 The Correctional Services Article Review Committee notes, for
20 consideration by the General Assembly, that there are significant
21 inconsistencies throughout this article in provisions governing the
22 disposition of an inmate's earnings in different contexts. See, e.g., §§
23 3-807(e)(1), 9-504(d), 9-512(b), 11-319(b), 11-407(b), 11-604,
24 11-703(d)(4), 11-704(d), 11-705(i), 11-706(b)(5), 11-708(b)(7), 11-711(g),
25 11-712(c)(5), 11-714(c)(4), 11-715(e), 11-716(g), 11-717(e), 11-718(e),
26 11-719(b), 11-722(b), 11-724(g), and 11-725(b) of this article and
27 accompanying Revisor's Notes. The General Assembly may wish to
28 examine all of the relevant provisions and determine whether they should
29 be changed to reflect a more consistent policy in this area.

30 Defined terms: "County" § 1-101

31 "Division" § 3-101

32 "Inmate" § 1-101

33 3-805. SAME -- INJURIES.

34 (A) STATUS OF INMATE.

35 AN INMATE WHO IS EMPLOYED IN THE COMMUNITY AS A PARTICIPANT IN THE
36 WORK-RELEASE PROGRAM ESTABLISHED UNDER § 3-801 OF THIS SUBTITLE IS NOT
37 AN AGENT, EMPLOYEE, OR INVOLUNTARY SERVANT OF THE DIVISION WHILE
38 RELEASED FROM CONFINEMENT UNDER THE TERMS OF A WORK-RELEASE PLAN.

39 (B) INJURIES.

1 TITLE 10, SUBTITLE 3 OF THIS ARTICLE DOES NOT APPLY WHEN AN INMATE
2 RELEASED UNDER A WORK-RELEASE PLAN SUSTAINS AN INJURY WHILE ENGAGED
3 IN GAINFUL PRIVATE EMPLOYMENT.

4 REVISOR'S NOTE: This section is new language derived without substantive
5 change from former Art. 27, § 700A(e).

6 In subsection (a) of this section, the defined term "Division" is substituted
7 for the former reference to "Department" for accuracy. See General
8 Revisor's Note to this subtitle.

9 In subsection (b) of this section, the reference to sustaining an injury while
10 "engaged" in gainful private employment is added to state expressly that
11 which was formerly only implied in the reference to an injury sustained
12 "in" gainful private employment.

13 Defined terms: "Division" § 3-101

14 "Inmate" § 1-101

15 3-806. SAME -- PAROLE; DIMINUTION CREDITS.

16 SECTIONS 3-801 THROUGH 3-805 OF THIS SUBTITLE DO NOT AFFECT:

17 (1) AN INMATE'S ELIGIBILITY FOR PAROLE, AS PROVIDED IN TITLE 7 OF
18 THIS ARTICLE; OR

19 (2) DIMINUTION OF AN INMATE'S TERM OF CONFINEMENT, AS
20 PROVIDED IN SUBTITLE 7 OF THIS TITLE.

21 REVISOR'S NOTE: This section is new language derived without substantive
22 change from former Art. 27, § 700A(f).

23 In item (2) of this section, the reference to an inmate's "term of"
24 confinement is added for consistency throughout this article. See General
25 Revisor's Note to this article.

26 Also in item (2) of this section, the former reference to an inmate "released
27 under a `work-release' plan" is deleted as implicit in the reference to
28 "inmate".

29 Defined term: "Inmate" § 1-101

30 3-807. EXTENDED WORK-RELEASE PROGRAM.

31 (A) AUTHORITY TO ESTABLISH.

32 THE DIVISION MAY ESTABLISH AN EXTENDED WORK-RELEASE PROGRAM.

33 (B) PURPOSE.

1 UNDER THE EXTENDED WORK-RELEASE PROGRAM, AN INMATE WHO IS
2 SENTENCED TO THE JURISDICTION OF THE DIVISION FOR DESERTION OR
3 NONSUPPORT OF A SPOUSE, CHILD, OR DESTITUTE PARENT MAY BE GRANTED THE
4 PRIVILEGE OF LEAVING ACTUAL CONFINEMENT:

5 (1) TO WORK AT GAINFUL EMPLOYMENT;

6 (2) TO LIVE IN A NONINSTITUTIONAL ENVIRONMENT; OR

7 (3) UNDER APPROPRIATE CONDITIONS, TO LIVE AT HOME UNDER
8 INTENSIVE SUPERVISION BY THE DIVISION OF PAROLE AND PROBATION.

9 (C) INVESTIGATION.

10 WHEN AN INMATE WHO HAS BEEN CONVICTED OF DESERTION OR NONSUPPORT
11 OF SPOUSE, CHILD, OR DESTITUTE PARENT IS FIRST RECEIVED AT A CORRECTIONAL
12 FACILITY IN THE DIVISION, THE DIVISION OF PAROLE AND PROBATION SHALL CAUSE
13 AN INVESTIGATION TO BE MADE TO ENABLE THE COMMISSIONER OR THE
14 COMMISSIONER'S DESIGNEE TO DETERMINE THE ADVISABILITY OF PLACING THE
15 INMATE IN THE EXTENDED WORK-RELEASE PROGRAM.

16 (D) APPROVAL; ADOPTION OF EXTENDED WORK-RELEASE PLAN;
17 REVOCATION.

18 (1) (I) AFTER REVIEWING THE RESULTS OF THE INVESTIGATION
19 DESCRIBED IN SUBSECTION (C) OF THIS SECTION, THE COMMISSIONER OR THE
20 COMMISSIONER'S DESIGNEE MAY APPROVE, DISAPPROVE, OR DEFER ACTION ON THE
21 PLACEMENT OF AN INMATE IN THE EXTENDED WORK-RELEASE PROGRAM.

22 (II) IF AN INMATE IS APPROVED FOR PLACEMENT IN THE
23 EXTENDED WORK-RELEASE PROGRAM, THE COMMISSIONER OR THE
24 COMMISSIONER'S DESIGNEE SHALL ADOPT AN EXTENDED WORK-RELEASE PLAN
25 FOR THE INMATE.

26 (2) AN EXTENDED WORK-RELEASE PLAN:

27 (I) SHALL CONTAIN TERMS AND CONDITIONS THAT ARE
28 NECESSARY AND PROPER;

29 (II) SHALL BE SIGNED BY THE INMATE BEFORE THE INMATE
30 PARTICIPATES IN THE PROGRAM; AND

31 (III) MAY BE CONDITIONED ON THE INMATE'S AGREEMENT TO
32 WAIVE THE RIGHT TO CONTEST EXTRADITION PROCEEDINGS.

33 (3) AT ANY TIME AND FOR ANY REASON, THE COMMISSIONER MAY
34 REVOKE APPROVAL FOR AN INMATE TO PARTICIPATE IN THE EXTENDED
35 WORK-RELEASE PROGRAM.

36 (E) TERMS AND CONDITIONS.

1 IN ADDITION TO ANY OTHER TERMS AND CONDITIONS CONTAINED IN AN
2 EXTENDED WORK-RELEASE PLAN, A PLAN MAY PROVIDE:

3 (1) THAT THE INMATE'S EARNINGS BE USED TO SUPPORT THE INMATE'S
4 FAMILY AND REIMBURSE THE STATE FOR THE INMATE'S ROOM AND BOARD; AND

5 (2) (I) THAT THE INMATE WORK AT GAINFUL EMPLOYMENT DURING
6 NECESSARY AND REASONABLE HOURS;

7 (II) THAT THE INMATE LIVE IN A CONTROLLED BUT
8 NONINSTITUTIONAL ENVIRONMENT, UNDER INTENSIVE SUPERVISION BY THE
9 DIVISION OF PAROLE AND PROBATION; OR

10 (III) IN SPECIAL CASES, TO SERVE THE GENERAL WELFARE AND
11 THE BEST INTERESTS OF THE INMATE'S FAMILY AND TO ENSURE FAMILY UNITY AND
12 MORE EFFECTIVE REHABILITATION AFTER EXPIRATION OF SENTENCE, THAT THE
13 INMATE LIVE AT HOME UNDER INTENSIVE SUPERVISION BY THE DIVISION OF
14 PAROLE AND PROBATION.

15 (F) CUSTODY.

16 (1) AN INMATE WHO HAS BEEN PLACED IN AN EXTENDED
17 WORK-RELEASE PLAN, INCLUDING AN INMATE WHO HAS BEEN ALLOWED TO LIVE AT
18 HOME OR ELSEWHERE, IS DEEMED TO BE IN THE CUSTODY OF THE COMMISSIONER
19 TO THE SAME EXTENT, AND SUBJECT TO THE SAME SUPERVISION AND CONTROL, AS
20 AN INMATE WHO IS ACTUALLY CONFINED IN A CORRECTIONAL FACILITY UNTIL THE
21 INMATE:

22 (I) IS PARDONED OR PAROLED; OR

23 (II) HAS SERVED THE INMATE'S FULL SENTENCE LESS ANY
24 DIMINUTION CREDITS AWARDED UNDER SUBTITLE 7 OF THIS TITLE.

25 (2) IF THE COMMISSIONER REVOKES AN EXTENDED WORK-RELEASE
26 PLAN, THE INMATE SHALL BE RETURNED TO ACTUAL CONFINEMENT IN A
27 CORRECTIONAL FACILITY UNTIL A NEW PLAN IS APPROVED FOR THE INMATE.

28 (G) OTHER STATE UNITS.

29 OTHER STATE UNITS, INCLUDING THE DEPARTMENT OF HUMAN RESOURCES
30 AND THE DIVISION OF PAROLE AND PROBATION, SHALL COOPERATE WITH THE
31 DIVISION TO IMPLEMENT AND ACCOMPLISH THE OBJECTIVES OF THE EXTENDED
32 WORK-RELEASE PROGRAM.

33 (H) REGULATIONS.

34 THE COMMISSIONER MAY ADOPT REGULATIONS TO IMPLEMENT THE
35 EXTENDED WORK-RELEASE PROGRAM.

36 (I) VIOLATIONS; PENALTY.

1 (1) AN INMATE WHO IS RELEASED FROM ACTUAL CONFINEMENT
2 UNDER AN EXTENDED WORK-RELEASE PROGRAM MAY NOT WILLFULLY VIOLATE
3 THE TERMS OF AUTHORIZATION FOR RELEASE IN THE INMATE'S EXTENDED
4 WORK-RELEASE PLAN.

5 (2) AN INMATE WHO VIOLATES PARAGRAPH (1) OF THIS SUBSECTION IS
6 GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO THE PENALTIES
7 ESTABLISHED UNDER ARTICLE 27, § 139 OF THE CODE.

8 REVISOR'S NOTE: This section is new language derived without substantive
9 change from former Art. 27, § 700E.

10 In subsection (d)(1) of this section, the reference to the Commissioner's
11 authority to approve, disapprove, or defer action "on the placement of an
12 inmate in the extended work-release program" is added to state expressly
13 that which was formerly only implied in the reference to the
14 Commissioner's authority to approve, disapprove, or defer action "as to any
15 particular inmate".

16 In subsection (d)(3) of this section, the former reference to making a
17 decision at any time "after approval has been granted" is deleted as
18 implicit in the reference to making a decision "at any time".

19 In subsection (e)(1) of this section, the former reference to "maintenance" is
20 deleted as implicit in the reference to "support".

21 In subsection (f)(1)(ii) of this section, the reference to "diminution credits
22 awarded" is substituted for the former reference to "deductions provided
23 for" for consistency with §§ 3-709 and 11-507 of this article.

24 In subsection (g) of this section, the reference to the "Department of
25 Human Resources" is substituted for the former reference to the
26 "Department of Employment and Social Services". The Department of
27 Employment and Social Services became the Department of Human
28 Resources in 1975. See Ch. 382, Acts of 1975.

29 Also in subsection (g) of this section, the former reference to other State
30 agencies including "but not limited to" the two specified agencies is deleted
31 as implicit in the reference to "including". See Art. 1, § 30 of the Code.

32 In subsection (h) of this section, the former reference to "necessary"
33 regulations is deleted as implicit in the reference to "regulations". See Title
34 10, Subtitle 1 of the State Government Article.

35 Also in subsection (h) of this section, the former reference to "rules" is
36 deleted in light of the reference to "regulations". See General Revisor's
37 Note to this article.

38 The Correctional Services Article Review Committee notes, for
39 consideration by the General Assembly, that subsection (i)(2) of this section

1 provides that a violation of subsection (i)(1) of this section is a
2 misdemeanor that is punishable under Art. 27, § 139. However, under Art.
3 27, § 139, a person who escapes from a correctional facility is guilty of a
4 felony. The General Assembly may wish to amend subsection (i)(2) of this
5 section to make it consistent with Art. 27, § 139, i.e., to provide that a
6 violation of subsection (i)(1) of this section is a felony.

7 The Correctional Services Article Review Committee further notes, for
8 consideration by the General Assembly, that subsection (i) of this section is
9 one of many provisions in this article that relates to inmates who escape
10 while legitimately outside the confines of a correctional facility (e.g., while
11 on work release, home detention, pretrial release, weekend leave,
12 compassionate leave, family leave, etc.). For a more detailed discussion of
13 the Committee's perspective on these provisions, see § 3-305(c) of this
14 article and accompanying Revisor's Note.

15 The Correctional Services Article Review Committee further notes, for
16 consideration by the General Assembly, that the Department has never
17 established an extended work-release program. The General Assembly
18 may wish to repeal this section.

19 Defined terms: "Commissioner" § 3-101

20 "Correctional facility" § 1-101

21 "Division" § 3-101

22 "Division of Parole and Probation" § 1-101

23 "Inmate" § 1-101

24 3-808. COMPASSIONATE LEAVE.

25 (A) IN GENERAL.

26 THE COMMISSIONER, THE DEPUTY COMMISSIONER, THE ASSISTANT
27 COMMISSIONER FOR OPERATIONS, OR THE ASSISTANT COMMISSIONER FOR
28 ADMINISTRATION MAY GRANT COMPASSIONATE LEAVE TO AN INMATE CONFINED IN
29 A CORRECTIONAL FACILITY IN THE DIVISION TO VISIT A MEMBER OF THE INMATE'S
30 IMMEDIATE FAMILY WHO IS SERIOUSLY ILL OR ATTEND THE FUNERAL OF A MEMBER
31 OF THE INMATE'S IMMEDIATE FAMILY.

32 (B) WRITTEN AUTHORIZATION REQUIRED.

33 (1) WHEN GRANTING COMPASSIONATE LEAVE TO AN INMATE, THE
34 COMMISSIONER, THE DEPUTY COMMISSIONER, THE ASSISTANT COMMISSIONER FOR
35 OPERATIONS, OR THE ASSISTANT COMMISSIONER FOR ADMINISTRATION SHALL:

36 (I) ISSUE A WRITTEN AUTHORIZATION THAT:

37 1. SPECIFIES THE CONDITIONS OF THE COMPASSIONATE
38 LEAVE; AND

1 The Correctional Services Article Review Committee notes, for
2 consideration by the General Assembly, that subsection (d) of this section is
3 one of many provisions in this article that relates to inmates who escape
4 while legitimately outside the confines of a correctional facility (e.g., while
5 on work release, home detention, pretrial release, weekend leave,
6 compassionate leave, family leave, etc.). For a discussion of the
7 Committee's perspective on these provisions, see § 3-305(c) of this title and
8 accompanying Revisor's Note.

9 In subsection (e) of this section, the former references to "reasonable" and
10 "necessary" regulations are deleted as implicit in the reference to
11 "regulations". See Title 10, Subtitle 1 of the State Government Article.

12 Defined terms: "Commissioner" § 3-101

13 "Correctional facility" § 1-101

14 "Division" § 3-101

15 "Inmate" § 1-101

16 3-809. SPECIAL LEAVE AND WEEKEND LEAVE FOR INMATES IN PRERELEASE
17 PROGRAM.

18 (A) IN GENERAL.

19 THE COMMISSIONER, THE DEPUTY COMMISSIONER, THE ASSISTANT
20 COMMISSIONER FOR OPERATIONS, OR THE ASSISTANT COMMISSIONER FOR
21 ADMINISTRATION MAY GRANT SPECIAL LEAVE WITHIN OR OUTSIDE OF THE STATE
22 AS PROVIDED UNDER THIS SECTION TO AN INMATE WHO:

23 (1) IS CONFINED IN A CORRECTIONAL FACILITY IN THE DIVISION;

24 (2) HAS BEEN SELECTED TO PARTICIPATE IN A PRERELEASE PROGRAM;
25 AND

26 (3) IS WITHIN 3 MONTHS OF THE INMATE'S ANTICIPATED RELEASE.

27 (B) PURPOSE.

28 THE COMMISSIONER, THE DEPUTY COMMISSIONER, THE ASSISTANT
29 COMMISSIONER FOR OPERATIONS, OR THE ASSISTANT COMMISSIONER FOR
30 ADMINISTRATION MAY GRANT SPECIAL LEAVE TO AN INMATE:

31 (1) FOR AN EMPLOYMENT INTERVIEW;

32 (2) AS PART OF A PRERELEASE PROGRAM RELATING TO EMPLOYMENT;
33 OR

34 (3) TO PARTICIPATE IN A COMMUNITY TREATMENT OR EDUCATIONAL
35 PROGRAM THAT WILL CONTRIBUTE TO THE INMATE'S REHABILITATION.

36 (C) WEEKEND LEAVE.

1 (1) THE COMMISSIONER, THE DEPUTY COMMISSIONER, THE ASSISTANT
2 COMMISSIONER FOR OPERATIONS, OR THE ASSISTANT COMMISSIONER FOR
3 ADMINISTRATION:

4 (I) MAY GRANT WEEKEND LEAVE TO AN INMATE IF:

5 1. THE INMATE HAS PARTICIPATED FOR AT LEAST 2 MONTHS
6 IN A PRERELEASE PROGRAM AS AUTHORIZED UNDER THIS SECTION; AND

7 2. THE INMATE'S DIRECT DIVISION SUPERVISOR IN THE
8 PRERELEASE PROGRAM RECOMMENDS THE INMATE FOR WEEKEND LEAVE; AND

9 (II) SHALL ESTABLISH THE TERMS AND CONDITIONS OF WEEKEND
10 LEAVE, WHICH MAY INCLUDE THE INMATE'S AGREEMENT TO WAIVE THE RIGHT TO
11 CONTEST EXTRADITION PROCEEDINGS.

12 (2) WEEKEND LEAVE MAY NOT BEGIN BEFORE 6 P.M. ON FRIDAY OR END
13 AFTER 6 P.M. ON THE SUNDAY THAT IMMEDIATELY FOLLOWS.

14 REVISOR'S NOTE: This section is new language derived without substantive
15 change from former Art. 27, § 700C.

16 In subsections (a) and (b) of this section, the references to "grant[ing]"
17 leave are substituted for the former references to "authoriz[ing]" leave for
18 consistency with subsection (c) of this section and §§ 3-801(b), 3-802(a)
19 and (b), 3-807(b), 3-808, 3-810(a), and 3-811(a) and (b)(1) of this subtitle.

20 In subsection (a)(1) of this section, the reference to a correctional facility
21 "in" the Division is substituted for the former reference to correctional
22 facilities "under the Commissioner's jurisdiction" for consistency
23 throughout this article. See General Revisor's Note to this article.

24 In subsection (b)(1) of this section, the former reference to allowing "time"
25 for an employment interview is deleted as implicit in the reference to
26 granting "leave" for an employment interview.

27 In subsection (c)(1)(i)2 of this section, the reference to the inmate's direct
28 "Division" supervisor is added to state expressly that which was only
29 implied in the former law, i.e., the recommendation must come from the
30 appropriate official of the Division and not from the inmate's prerelease
31 employer. See also § 3-802(a)(2) of this subtitle.

32 In subsection (c)(2) of this section, the former reference to a weekend
33 "consist[ing] of a period of time" is deleted as unnecessary in light of the
34 specific reference to particular times.

35 Also in subsection (c)(2) of this section, the reference to weekend "leave" is
36 added to state expressly that which was formerly only implied in the
37 reference to "weekend".

1 Defined terms: "Commissioner" § 3-101

2 "Correctional facility" § 1-101

3 "Division" § 1-101

4 "Inmate" § 1-101

5 3-810. SPECIAL LEAVE FOR PARTICIPATION IN SPECIAL OR MERITORIOUS
6 PROGRAMS.

7 (A) IN GENERAL.

8 ON THE RECOMMENDATION OF TREATMENT STAFF AND WITH THE APPROVAL
9 OF THE MANAGING OFFICIAL OF A CORRECTIONAL FACILITY IN THE DIVISION, THE
10 COMMISSIONER OR DEPUTY COMMISSIONER MAY GRANT SPECIAL LEAVE TO AN
11 INMATE TO ALLOW AN INMATE TO PARTICIPATE IN A SPECIAL COMMUNITY OR
12 OTHER MERITORIOUS PROGRAM OR ACTIVITY WITHIN OR OUTSIDE OF THE STATE
13 THAT THE COMMISSIONER AND MANAGING OFFICIAL BELIEVE:

14 (1) WOULD BENEFIT THE INMATE;

15 (2) WOULD NOT BE DETRIMENTAL TO THE PUBLIC; AND

16 (3) WOULD HELP REHABILITATE THE INMATE.

17 (B) PURPOSE.

18 THE COMMISSIONER OR DEPUTY COMMISSIONER MAY GRANT SPECIAL LEAVE
19 FOR THE PURPOSE OF ALLOWING AN INMATE TO:

20 (1) ATTEND AN EDUCATIONAL PROGRAM;

21 (2) IMPROVE JOB SKILLS;

22 (3) ATTEND A TRADE LICENSING EXAMINATION;

23 (4) BE INTERVIEWED FOR EMPLOYMENT;

24 (5) PARTICIPATE AS A VOLUNTEER FOR A GOVERNMENTAL UNIT IN AN
25 ACTIVITY THAT SERVES THE GENERAL PUBLIC;

26 (6) PARTICIPATE IN ATHLETIC COMPETITION; OR

27 (7) PARTICIPATE IN A CIVIC ACTIVITY THAT BENEFITS THE INMATE OR
28 THE COMMUNITY.

29 (C) ELIGIBILITY.

30 (1) AN INMATE IS NOT ELIGIBLE FOR SPECIAL LEAVE UNDER THIS
31 SECTION UNLESS THE MANAGING OFFICIAL AND COMMISSIONER CONCUR THAT
32 POSITIVE ATTITUDINAL AND GROWTH PATTERNS ARE BEING ESTABLISHED.

1 (2) SPECIAL LEAVE SHALL BE ISSUED IN WRITING AND SIGNED
2 PERSONALLY BY BOTH THE MANAGING OFFICIAL AND EITHER THE COMMISSIONER
3 OR DEPUTY COMMISSIONER.

4 (3) AS A CONDITION OF GRANTING SPECIAL LEAVE, THE COMMISSIONER
5 MAY REQUIRE THAT THE INMATE AGREE TO WAIVE THE RIGHT TO CONTEST
6 EXTRADITION PROCEEDINGS.

7 (4) THE COMMISSIONER OR DEPUTY COMMISSIONER SHALL FILE THE
8 ORDER GRANTING SPECIAL LEAVE IN THE DIVISION.

9 REVISOR'S NOTE: This section is new language derived without substantive
10 change from former Art. 27, § 700D.

11 In subsection (a) of this section, the reference to "grant[ing]" leave is
12 substituted for the former reference to "authoriz[ing]" leave for consistency
13 with subsections (b) and (c)(3) and (4) of this section and §§ 3-801(b),
14 3-802(a) and (b), 3-807(b), 3-808, 3-809, and 3-811(a) and (b)(1) of this
15 subtitle.

16 Also in subsection (a) of this section, the reference to a special community
17 or other meritorious program or activity that the Commissioner and
18 managing official "believe" is beneficial to the inmate is substituted for the
19 former reference to a program or activity that "in their judgment" is
20 beneficial to the inmate for brevity.

21 Also in subsection (a) of this section, the reference to a correctional facility
22 "in" the Division of Correction is substituted for the former reference to a
23 correctional facility "under [the Commissioner's] jurisdiction" for
24 consistency throughout this article. See General Revisor's Note to this
25 article.

26 In the introductory language of subsection (b) of this section, the reference
27 to the authority of the "Commissioner or the Deputy Commissioner" is
28 added to state expressly that which was only implied in the former law,
29 i.e., these are the only individuals who have authority to grant special
30 leave under this section.

31 In subsection (b)(5) of this section, the reference to a governmental "unit"
32 is substituted for the former reference to a governmental "agency" for
33 consistency throughout this article. See General Revisor's Note to this
34 article.

35 In subsection (c)(2) of this section, the former explicit prohibition against
36 delegating responsibility for the issuance of special leave is deleted as
37 unnecessary in light of the requirement that the special leave be signed
38 "personally" by either the Commissioner or Deputy Commissioner.

39 In subsection (c)(4) of this section, the reference to the "Commissioner or
40 Deputy Commissioner" is added to state expressly that which was only

1 implied in the former law.

2 Also in subsection (c)(4) of this section, the defined term "Division" is
3 substituted for the former reference to "Department" for accuracy. See
4 General Revisor's Note to this subtitle.

5 Defined terms: "Commissioner" § 3-101

6 "Correctional facility" § 1-101

7 "Division" § 1-101

8 "Inmate" § 1-101

9 "Managing official" § 1-101

10 3-811. FAMILY LEAVE.

11 (A) IN GENERAL.

12 THE COMMISSIONER OR COMMISSIONER'S DESIGNEE MAY GRANT FAMILY
13 LEAVE TO ALLOW AN INMATE TO VISIT THE INMATE'S FAMILY FOR A REASONABLE
14 TIME IF THE INMATE:

15 (1) IS CONFINED IN A CORRECTIONAL FACILITY IN THE DIVISION;

16 (2) IS CLASSIFIED TO BE IN MINIMUM SECURITY STATUS; AND

17 (3) IS RECOMMENDED BY THE CORRECTIONAL FACILITY'S CASE
18 MANAGEMENT TEAM AND MANAGING OFFICIAL.

19 (B) WRITTEN AUTHORIZATION.

20 (1) WHEN GRANTING FAMILY LEAVE TO AN INMATE, THE
21 COMMISSIONER OR COMMISSIONER'S DESIGNEE SHALL:

22 (I) ISSUE A WRITTEN AUTHORIZATION TO THE INMATE THAT
23 SPECIFIES THE CONDITIONS OF THE FAMILY LEAVE; AND

24 (II) FILE A COPY OF THE AUTHORIZATION IN THE COMMISSIONER'S
25 OFFICE.

26 (2) WHILE ON FAMILY LEAVE, AN INMATE AT ALL TIMES SHALL POSSESS
27 A COPY OF THE AUTHORIZATION FOR FAMILY LEAVE.

28 (C) FAILURE TO COMPLY WITH AUTHORIZATION.

29 THE FAILURE OF AN INMATE TO COMPLY WITH THE TERMS OF THE
30 AUTHORIZATION FOR FAMILY LEAVE IS A VIOLATION OF ARTICLE 27, § 139 OF THE
31 CODE.

32 (D) REGULATIONS.

33 THE COMMISSIONER MAY ADOPT REGULATIONS TO CARRY OUT THIS SECTION.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 27, § 700D-1.

3 In subsection (a) of this section, the reference to the "Commissioner's
4 designee" is added for consistency with subsection (b)(1) of this section.

5 Also in subsection (a) of this section, the reference to "grant[ing]" leave is
6 substituted for the former reference to "authoriz[ing]" leave for consistency
7 with subsection (b)(1) of this section and §§ 3-801(b), 3-802(a) and (b),
8 3-807(b), 3-808, 3-809, and 3-810(a) of this subtitle.

9 In subsection (a)(1) of this section, the reference to a correctional facility
10 "in" the Division is substituted for the former reference to a correctional
11 facility "under" the Division for consistency throughout this article. See
12 General Revisor's Note to this article.

13 The Correctional Services Article Review Committee notes, for
14 consideration by the General Assembly, that the practice of the Division no
15 longer conforms to subsection (a)(2) of this section. When originally
16 enacted, "minimum security status" was the lowest inmate classification
17 status. Today "prerelease status" is the lowest inmate classification status.
18 The Division currently grants family leave only to those inmates who are
19 on prerelease status. The General Assembly may wish to amend subsection
20 (a)(2) to reflect current practice.

21 In subsection (a)(3) of this section, the reference to the "case management"
22 team is substituted for the former reference to the "classification" team to
23 reflect the Division's current nomenclature.

24 In subsection (b)(1)(ii) of this section, the former requirement that a copy of
25 the authorization be kept on file as a "public record" is deleted as
26 unnecessary in light of the laws governing public records that are set forth
27 in Title 10, Subtitle 6 of the State Government Article and for consistency
28 with §§ 3-808(b)(1)(ii) and 3-810(c)(4) of this subtitle.

29 In subsection (c) of this section, the former reference to Art. 27, § 139 "as
30 amended from time to time" is deleted as implicit in the reference to
31 "Article 27, § 139". See Art. 1, § 21.

32 The Correctional Services Article Review Committee notes, for
33 consideration by the General Assembly, that subsection (c) of this section is
34 one of many provisions in this article that relates to inmates who escape
35 while legitimately outside the confines of a correctional facility (e.g., while
36 on work release, home detention, pretrial release, weekend leave,
37 compassionate leave, family leave, etc.). For a discussion of the
38 Committee's perspective on these provisions, see § 3-305(c) of this title and
39 accompanying Revisor's Note.

40 In subsection (d) of this section, the former references to "reasonable" and
41 "necessary" regulations are deleted as implicit in the reference to

1 "regulations". See Title 10, Subtitle 1 of the State Government Article.

2 Defined terms: "Commissioner" § 3-101

3 "Correctional facility" § 1-101

4 "Division" § 1-101

5 "Inmate" § 1-101

6 "Managing official" § 1-101

7 GENERAL REVISOR'S NOTE TO SUBTITLE:

8 Throughout this subtitle, references to the "Division" of Correction are
9 substituted for the former obsolete references to the "Department" of
10 Correctional Services. The Department of Correctional Services was
11 reorganized as the Division of Correction in 1970. See Ch. 401, Acts of
12 1970.

13 SUBTITLE 9. DEATH PENALTY PROCEDURES.

14 3-901. CUSTODY.

15 (A) DUTIES OF JUDGE.

16 WHENEVER AN INDIVIDUAL IS SENTENCED TO DEATH, THE JUDGE OF THE
17 COURT WHERE THE CONVICTION TAKES PLACE SHALL CAUSE THE INDIVIDUAL TO
18 BE TAKEN INTO CUSTODY BY THE SHERIFF OF THE COUNTY IN WHICH THE
19 INDIVIDUAL WAS INDICTED.

20 (B) DUTIES OF SHERIFF.

21 (1) WHILE THE INMATE IS IN THE CUSTODY OF THE SHERIFF, THE
22 SHERIFF SHALL:

23 (I) HOLD THE INMATE UNDER GUARD AS THE SHERIFF
24 DETERMINES TO BE NECESSARY; AND

25 (II) KEEP THE INMATE IN SOLITARY CONFINEMENT IN THE SAME
26 MANNER AS IS REQUIRED WHEN THE INMATE IS IN THE CUSTODY OF THE DIVISION.

27 (2) AS SOON AS POSSIBLE, THE SHERIFF SHALL DELIVER THE INMATE
28 TO THE DIVISION TO AWAIT THE EXECUTION OF THE INMATE'S SENTENCE.

29 (C) EXPENSES.

30 THE EXPENSES OF THE DIVISION RELATING TO THE DETENTION OF AN INMATE
31 UNDER SENTENCE OF DEATH, INCLUDING THE EXPENSES OF GUARDING, LODGING,
32 FEEDING, CLOTHING, AND CARING FOR THE INMATE, MAY NOT BE ASSESSED
33 AGAINST, BILLED TO, OR PAID BY THE COUNTY IN WHICH THE INMATE WAS
34 INDICTED.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 27, § 628, § 74 as it related to the sheriff, and the
3 first and second sentences of § 76.

4 In subsection (a) of this section, the former reference to the sentence of
5 death being "executed as if passed in that place" is deleted as obsolete in
6 light of the specific rules governing the execution of a death sentence that
7 are set forth in this subtitle.

8 The Correctional Services Article Review Committee notes, for
9 consideration by the General Assembly, that subsection (a) of this section is
10 obsolete. This provision requires that an individual be taken into custody
11 by the sheriff after being sentenced to death. However, in practice, the
12 individual is held only briefly by the sheriff and is taken into custody by
13 the Division of Correction promptly after sentencing. The Committee
14 further notes that there is no express authority for the Division of
15 Correction to hold an individual pending execution of the death sentence.
16 The absence of such express authority gives rise to a number of issues,
17 including: (1) whether the sheriff or the Division of Correction has legal
18 custody of the individual after the individual is delivered to the Division of
19 Correction; and (2) whether the Division of Correction has authority to
20 hold an individual in custody after the expiration of a warrant of execution
21 or during the stay of a warrant of execution. To address these issues, the
22 Committee believes that subsection (a) of this section should be amended
23 to require that a court, after sentencing an individual to death, commit the
24 individual to the custody of the Commissioner of Correction pending
25 execution of the death sentence. See, e.g., § 9-103(a) of this article (which
26 provides that, in noncapital cases, individuals are sentenced to the
27 jurisdiction of the Division of Correction and committed to the custody of
28 the Commissioner of Correction). The Committee also believes that
29 subsection (b) of this section, which establishes duties of the sheriff while
30 an individual is in custody of the sheriff, should be repealed as obsolete.

31 Also in subsection (a) of this section, the former reference to the "city" in
32 which an individual is indicted is deleted as unnecessary because the
33 defined term "county" includes Baltimore City. See § 1-101 of this article
34 for the definition of "county".

35 In subsection (b) of this section, the references to the defined term
36 "inmate" are substituted for the former references to a "felon" and "convict"
37 for consistency throughout this article. See § 1-101 of this article for the
38 definition of "inmate".

39 In subsection (b)(1)(ii) of this section, the reference to an inmate who is "in
40 the custody of the Division" is substituted for the former reference to "said
41 felon ... in the penitentiary" for consistency with § 9-103(a)(3) of this
42 article, which provides that any reference to the confinement of an inmate
43 in a particular State correctional facility must be construed to mean
44 confinement in the Division of Correction.

1 The Correctional Services Article Review Committee notes, for
 2 consideration by the General Assembly, that the meaning of subsection
 3 (b)(2) of this section is unclear. The part of former Art. 27, § 74 that is
 4 revised in subsection (b)(2) of this section required a sheriff to keep an
 5 inmate in solitary confinement "as hereinafter provided when said felon is
 6 in the penitentiary". However, there were no provisions in the Death
 7 Penalty subheading of former Art. 27 (*i.e.*, §§ 71 through 79) that required
 8 an inmate to be kept in solitary confinement while in the penitentiary.
 9 Therefore, subsection (b)(2) of this section does not appear to impose any
 10 duty on the sheriff. If the General Assembly does not repeal subsection (b)
 11 of this section for the reasons discussed above in this Revisor's Note, the
 12 General Assembly may wish to repeal subsection (b)(2) of this section as
 13 meaningless.

14 In subsection (c) of this section, the reference to an inmate "under sentence
 15 of death" is added to state expressly that which was formerly only implied
 16 in the reference to an "inmate".

17 The Correctional Services Article Review Committee notes, for
 18 consideration by the General Assembly, that subsection (c) of this section
 19 would be obsolete if the General Assembly, as discussed above in this
 20 Revisor's Note, amends subsection (a) of this section to require that a court
 21 commit an individual who is sentenced to death to the custody of the
 22 Commissioner of Correction pending execution of the death sentence and
 23 repeals subsection (b) of this section as obsolete.

24 The remainder of former Art. 27, § 74, which specified the duties of the
 25 clerk of the court on imposition of a sentence of death, is revised as Art. 27,
 26 § 414A. See § _____, Ch. _____, Acts of 1999, which also enacted this
 27 article.

28 Defined terms: "County" § 1-101

29 "Division" § 3-101

30 "Inmate" § 1-101

31 3-902. WARRANT OF EXECUTION.

32 (A) DEFINED TERMS.

33 (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
 34 INDICATED.

35 (2) (I) "STATE POSTCONVICTION REVIEW PROCESS" MEANS THE
 36 INITIAL ADJUDICATION OF A POSTCONVICTION PETITION FILED UNDER ARTICLE 27,
 37 § 645A(A)(2)(I) OF THE CODE, INCLUDING ANY APPELLATE REVIEW OF THE
 38 POSTCONVICTION PROCEEDING.

39 (II) "STATE POSTCONVICTION REVIEW PROCESS" DOES NOT
 40 INCLUDE:

1 1. A POSTCONVICTION PROCEEDING THAT HAS BEEN
2 REOPENED UNDER ARTICLE 27, § 645A(A)(2)(III) OF THE CODE OR ANY APPELLATE
3 REVIEW OF THE PROCEEDING; OR

4 2. A POSTCONVICTION PROCEEDING ON A SECOND PETITION
5 FILED BEFORE OCTOBER 1, 1995, OR ANY APPELLATE REVIEW OF THE PROCEEDING.

6 (3) "WARRANT OF EXECUTION" MEANS A WARRANT FOR THE EXECUTION
7 OF A SENTENCE OF DEATH ON THE INDIVIDUAL AGAINST WHOM THE SENTENCE WAS
8 IMPOSED.

9 (B) CONTENTS OF WARRANT OF EXECUTION.

10 (1) A WARRANT OF EXECUTION SHALL:

11 (I) STATE THE CONVICTION AND SENTENCE;

12 (II) DESIGNATE A 5-DAY PERIOD, BEGINNING ON A MONDAY,
13 WITHIN WHICH THE SENTENCE MUST BE EXECUTED; AND

14 (III) COMMAND THE COMMISSIONER TO CARRY OUT THE DEATH
15 PENALTY ON A DAY WITHIN THE DESIGNATED PERIOD.

16 (2) THE PERIOD DESIGNATED IN A WARRANT OF EXECUTION SHALL
17 BEGIN NOT LESS THAN 4 WEEKS AND NOT MORE THAN 8 WEEKS AFTER THE
18 WARRANT OF EXECUTION IS ISSUED.

19 (C) INITIAL WARRANT OF EXECUTION.

20 AT THE TIME AN INDIVIDUAL IS SENTENCED TO DEATH, THE JUDGE PRESIDING
21 IN THE COURT SHALL ISSUE A WARRANT OF EXECUTION DIRECTED TO THE
22 COMMISSIONER.

23 (D) STAY DURING REVIEW PROCESS.

24 (1) A WARRANT OF EXECUTION IS STAYED DURING THE DIRECT REVIEW
25 PROCESS AND THE STATE POSTCONVICTION REVIEW PROCESS.

26 (2) IF THE ORIGINAL WARRANT OF EXECUTION HAS NOT EXPIRED AT
27 THE END OF THE STATE POSTCONVICTION REVIEW PROCESS, THE JUDGE WHO
28 IMPOSED THE SENTENCE OF DEATH OR THE JUDGE THEN PRESIDING IN THE COURT
29 IN WHICH THE SENTENCE WAS IMPOSED SHALL LIFT THE STAY IMPOSED UNDER
30 PARAGRAPH (1) OF THIS SUBSECTION.

31 (3) IF THE ORIGINAL WARRANT OF EXECUTION HAS EXPIRED AT THE
32 END OF THE STATE POSTCONVICTION REVIEW PROCESS, THE JUDGE WHO IMPOSED
33 THE SENTENCE OF DEATH OR THE JUDGE THEN PRESIDING IN THE COURT IN WHICH
34 THE SENTENCE WAS IMPOSED SHALL ISSUE ANOTHER WARRANT OF EXECUTION.

35 (E) PREGNANT INMATE.

1 (1) IF THE GOVERNOR IS SATISFIED THAT A MEDICAL EXAMINATION
2 SHOWS THAT AN INMATE IS PREGNANT, THE GOVERNOR SHALL REVOKE A WARRANT
3 OF EXECUTION FOR THE INMATE.

4 (2) AS SOON AS THE GOVERNOR IS SATISFIED THAT THE INMATE IS NO
5 LONGER PREGNANT, THE GOVERNOR PROMPTLY SHALL ISSUE ANOTHER WARRANT
6 OF EXECUTION.

7 (F) GOVERNOR'S STAY.

8 (1) THE GOVERNOR MAY GRANT A STAY OF A WARRANT OF EXECUTION
9 FOR ANY CAUSE.

10 (2) IF THE GOVERNOR GRANTS A STAY UNDER THIS SUBSECTION:

11 (I) THE GOVERNOR SHALL ISSUE AN ORDER REVOKING THE
12 WARRANT OF EXECUTION; AND

13 (II) THE SENTENCE OF DEATH MAY NOT BE EXECUTED UNTIL THE
14 GOVERNOR ISSUES ANOTHER WARRANT OF EXECUTION.

15 (3) THE GOVERNOR PROMPTLY SHALL NOTIFY THE COMMISSIONER OF
16 AN ORDER THAT REVOKES A WARRANT OF EXECUTION.

17 (G) TIME OF EXECUTION.

18 (1) THE COMMISSIONER SHALL SET A TIME, WITHIN THE PERIOD
19 DESIGNATED IN THE WARRANT OF EXECUTION, WHEN THE SENTENCE OF DEATH
20 SHALL BE EXECUTED.

21 (2) NO PREVIOUS ANNOUNCEMENT OF THE DAY OR TIME OF THE
22 EXECUTION MAY BE MADE EXCEPT TO THOSE WHO ARE INVITED OR ALLOWED TO BE
23 PRESENT AS PROVIDED IN THIS SUBTITLE.

24 REVISOR'S NOTE: This section is new language derived without substantive
25 change from former Art. 27, § 75.

26 In subsection (a)(2)(ii)1 of this section, the reference to "§ 645A(a)(2)(iii)" of
27 Art. 27 is substituted for the former incorrect reference to "§ 645A(a)(2)(ii)"
28 of Art. 27.

29 In subsections (a)(3) and (c) of this section, the references to an
30 "individual" are substituted for the former references to a "person" because
31 only human beings, and not the other entities included in the defined term
32 "person", can be sentenced to death. See § 1-101 of this article for the
33 definition of "person".

34 In subsection (b)(1)(iii) of this section, the reference to the "Commissioner"
35 is substituted for the former reference to a "warden", as the individual
36 commanded to execute a death sentence, for consistency with subsection (c)

1 of this section.

2 In subsection (c) of this section, the former reference to the judge "or
3 judges" is deleted in light of Art. 1, § 8, which provides that the singular
4 generally includes the plural.

5 Also in subsection (c) of this section, the former requirement that the judge
6 "make out" and "sign" a warrant of execution is deleted as included in the
7 requirement that the judge "issue" a warrant of execution.

8 In subsection (d)(2) and (3) of this section, the former references to the
9 "trial" court in which the sentence was imposed are deleted as implicit in
10 the references to the "court" in which the sentence was imposed.

11 In subsection (e)(1) and (2) of this section, the former references to a
12 "female" inmate are deleted as implicit in the references to a "pregnant"
13 inmate.

14 In subsection (e)(1) of this section, the reference to an inmate who is
15 "sentenced to the punishment of death" is deleted as implicit in the
16 reference to an inmate who is subject to a "warrant of execution".

17 Also in subsection (e)(1) of this section, the former reference to a warrant of
18 execution "previously issued" is deleted as implicit in the reference to a
19 "warrant of execution". Correspondingly, in subsection (f)(2) of this section,
20 the former reference to a warrant of execution "theretofore issued" is
21 deleted.

22 Defined terms: "Commissioner" § 3-101

23 "Inmate" § 1-101

24 3-903. CUSTODY AFTER SENTENCE.

25 (A) "OFFICIAL" DEFINED.

26 IN THIS SECTION, "OFFICIAL" MEANS:

27 (1) THE COMMISSIONER; OR

28 (2) THE SHERIFF OF THE COUNTY IN WHICH AN INMATE WAS INDICTED.

29 (B) NOTICE OF REPRIEVE OR STAY.

30 (1) IF THE GOVERNOR GRANTS A REPRIEVE TO AN INMATE UNDER
31 SENTENCE OF DEATH OR A COURT IMPOSES A STAY ON THE EXECUTION OF A
32 SENTENCE OF DEATH, THE GOVERNOR OR COURT SHALL SERVE NOTICE OF THE
33 REPRIEVE OR STAY ON:

34 (I) THE INMATE; AND

35 (II) THE OFFICIAL WHO HAS CUSTODY OF THE INMATE.

1 (2) THE OFFICIAL WHO HAS CUSTODY OF THE INMATE SHALL OBEY THE
2 REPRIEVE OR STAY.

3 (C) RETENTION IN CUSTODY.

4 AN INMATE WHO IS GRANTED A REPRIEVE OR STAY SHALL REMAIN IN THE
5 CUSTODY OF THE OFFICIAL WHO RECEIVES NOTICE UNDER SUBSECTION (B)(1)(II) OF
6 THIS SECTION.

7 (D) SUBSEQUENT PROCEEDINGS.

8 (1) IN ANY SUBSEQUENT JUDICIAL PROCEEDING, THE COURT SHALL
9 SERVE ANY COURT ORDER REGARDING AN INMATE ON:

10 (I) THE INMATE; AND

11 (II) THE OFFICIAL WHO HAS CUSTODY OF THE INMATE.

12 (2) IF A COURT RESENTENCES AN INMATE TO DEATH, THE PROVISIONS
13 OF THIS SUBTITLE SHALL APPLY TO THE NEW SENTENCE IN THE SAME MANNER AS
14 THE ORIGINAL SENTENCE.

15 (3) (I) IF A NEW TRIAL IS GRANTED TO AN INMATE WHO IS IN THE
16 CUSTODY OF THE COMMISSIONER, THE INMATE SHALL BE TRANSPORTED BACK TO
17 THE PLACE OF TRIAL UNDER GUARD AS THE COMMISSIONER DIRECTS.

18 (II) THE EXPENSES RELATING TO THE TRANSPORTATION OF AN
19 INMATE BACK TO THE PLACE OF TRIAL UNDER SUBPARAGRAPH (I) OF THIS
20 PARAGRAPH SHALL BE PAID BY THE DIVISION.

21 REVISOR'S NOTE: Subsection (a) of this section is new language added to
22 avoid repetition of references to "the Commissioner ... or ... the sheriff".

23 Subsections (b), (c), and (d) of this section are new language derived
24 without substantive change from former Art. 27, § 77.

25 The Correctional Services Article Review Committee notes, for
26 consideration by the General Assembly, that the reference to "the sheriff of
27 a county in which an inmate was indicted" in subsection (a)(2) of this
28 section is obsolete. In practice, only the Commissioner has custody of an
29 inmate who is under a sentence of death. See Revisor's Note to § 3-901 of
30 this subtitle. The General Assembly may wish to repeal subsection (a) of
31 this section and substitute references to "the Commissioner" for the
32 current references to "the official who has custody of the inmate"
33 throughout this section.

34 In subsection (b)(1) of this section, the reference to a warrant of execution
35 that is stayed by a "court" is substituted for the former reference to a
36 warrant of execution that is stayed by a "competent judicial proceeding" for
37 brevity.

1 Also in subsection (b)(1) of this section, the requirement that the "Governor
2 or court" serve notice of the reprieve or stay on the inmate and the official
3 who has custody of the inmate is added to state expressly that which was
4 only implied in the former law.

5 In subsection (d)(2) of this section, the reference to an individual being
6 resentenced "to death" is added to state expressly that which was formerly
7 only implied in the reference to an individual being "resentence[d]".

8 In subsection (d)(3)(i) of this section, the reference to an inmate who "is in
9 the custody of the Commissioner" is substituted for the former reference to
10 an inmate who "has been conveyed to [a correctional facility] ... under the
11 jurisdiction of the Division of Correction" for consistency with § 9-103 of
12 this article, which provides that an inmate who has been sentenced to the
13 jurisdiction of the Division of Correction shall be committed to the custody
14 of the Commissioner.

15 Defined terms: "Commissioner" § 3-101

16 "County" § 1-101

17 "Division" § 3-101

18 "Inmate" § 1-101

19 3-904. INCOMPETENT INMATE.

20 (A) DEFINITIONS.

21 (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
22 INDICATED.

23 (2) "INCOMPETENT" MEANS THE STATE OF MIND OF AN INMATE WHO, AS
24 A RESULT OF A MENTAL DISORDER OR MENTAL RETARDATION, LACKS AWARENESS:

25 (I) OF THE FACT OF THE INMATE'S IMPENDING EXECUTION; AND

26 (II) THAT THE INMATE IS TO BE EXECUTED FOR THE CRIME OF
27 MURDER.

28 (3) "INMATE" MEANS AN INDIVIDUAL WHO HAS BEEN CONVICTED OF
29 MURDER AND SENTENCED TO DEATH.

30 (B) TREATMENT AND MEDICATION.

31 AN INMATE IS NOT INCOMPETENT UNDER THIS SECTION MERELY BECAUSE
32 THE INMATE'S COMPETENCE DEPENDS ON CONTINUING TREATMENT, INCLUDING
33 THE USE OF MEDICATION.

34 (C) PROHIBITION AGAINST EXECUTION.

35 THE STATE MAY NOT EXECUTE A SENTENCE OF DEATH AGAINST AN INMATE
36 WHO HAS BECOME INCOMPETENT.

1 (D) PETITION ALLEGING INCOMPETENCE.

2 (1) A PETITION THAT ALLEGES THAT AN INMATE IS INCOMPETENT AND
3 THAT SEEKS TO REVOKE A WARRANT OF EXECUTION AGAINST THE INMATE MAY BE
4 FILED BY:

5 (I) THE INMATE;

6 (II) IF THE INMATE IS REPRESENTED BY COUNSEL, COUNSEL FOR
7 THE INMATE; OR

8 (III) IF THE INMATE IS NOT REPRESENTED BY COUNSEL, ANY
9 OTHER PERSON ON THE INMATE'S BEHALF.

10 (2) THE PETITION SHALL BE FILED IN THE CIRCUIT COURT OF THE
11 COUNTY IN WHICH THE INMATE IS CONFINED.

12 (3) ON THE FILING OF THE PETITION, THE COURT MAY STAY ANY
13 WARRANT OF EXECUTION THAT WAS PREVIOUSLY ISSUED AND HAS NOT YET
14 EXPIRED.

15 (4) THE PETITION MUST BE ACCOMPANIED BY AN AFFIDAVIT OF AT
16 LEAST ONE PSYCHIATRIST THAT:

17 (I) IS BASED, AT LEAST IN PART, ON PERSONAL EXAMINATION;

18 (II) STATES THAT IN THE PSYCHIATRIST'S MEDICAL OPINION THE
19 INMATE IS INCOMPETENT; AND

20 (III) STATES THE PERTINENT FACTS ON WHICH THE OPINION IS
21 BASED.

22 (5) A COPY OF THE PETITION SHALL BE SERVED ON THE ATTORNEY
23 GENERAL AND THE OFFICE OF THE STATE'S ATTORNEY THAT PROSECUTED THE
24 INMATE, IN ACCORDANCE WITH THE SERVICE REQUIREMENTS OF THE MARYLAND
25 RULES.

26 (6) UNLESS THE INMATE IS ALREADY REPRESENTED BY COUNSEL, THE
27 COURT PROMPTLY SHALL APPOINT THE PUBLIC DEFENDER OR, IF THE PUBLIC
28 DEFENDER FOR GOOD CAUSE DECLINES REPRESENTATION, OTHER COUNSEL TO
29 REPRESENT THE INMATE IN THE PROCEEDING.

30 (7) UNLESS THE STATE'S ATTORNEY STIPULATES TO THE INMATE'S
31 INCOMPETENCE, THE STATE'S ATTORNEY SHALL CAUSE THE INMATE TO BE
32 EXAMINED AND EVALUATED BY ONE OR MORE PSYCHIATRISTS SELECTED BY THE
33 STATE'S ATTORNEY.

34 (8) IF THE INMATE'S REQUEST IS REASONABLE AND TIMELY MADE, AN
35 INMATE IS ENTITLED TO BE INDEPENDENTLY EXAMINED BY A PSYCHIATRIST THAT
36 THE INMATE SELECTS.

1 (9) UNLESS, WITH THE COURT'S APPROVAL, THE PARTIES WAIVE A
2 HEARING, THE ADMINISTRATIVE JUDGE OF THE COURT SHALL DESIGNATE A TIME
3 FOR AN EVIDENTIARY HEARING TO DETERMINE THE INMATE'S COMPETENCE.

4 (E) HEARING.

5 (1) A HEARING UNDER THIS SECTION SHALL BE HELD WITHOUT A JURY:

6 (I) IN COURT;

7 (II) AT THE PLACE WHERE THE INMATE IS CONFINED; OR

8 (III) AT ANOTHER CONVENIENT PLACE.

9 (2) AT THE HEARING, THE INMATE:

10 (I) SUBJECT TO REASONABLE RESTRICTIONS RELATED TO THE
11 INMATE'S CONDITION, MAY BE PRESENT;

12 (II) THROUGH COUNSEL, MAY OFFER EVIDENCE, CROSS-EXAMINE
13 WITNESSES AGAINST THE INMATE, AND MAKE ARGUMENT; AND

14 (III) HAS THE BURDEN OF ESTABLISHING INCOMPETENCE BY A
15 PREPONDERANCE OF THE EVIDENCE.

16 (F) ORDER.

17 THE COURT SHALL ENTER AN ORDER THAT:

18 (1) DECLARES THE INMATE TO BE COMPETENT OR INCOMPETENT; AND

19 (2) STATES THE FINDINGS ON WHICH THE DECLARATION IS BASED.

20 (G) FINDING OF COMPETENCE.

21 IF THE COURT FINDS THE INMATE TO BE COMPETENT, THE COURT
22 IMMEDIATELY:

23 (1) SHALL LIFT ANY STAY OF A WARRANT OF EXECUTION THAT WAS
24 PREVIOUSLY ISSUED AND HAS NOT YET EXPIRED; OR

25 (2) IF ALL PREVIOUSLY ISSUED WARRANTS OF EXECUTION HAVE
26 EXPIRED, SHALL NOTIFY THE COURT THAT IMPOSED THE SENTENCE OF DEATH AND
27 REQUEST THAT THE COURT ISSUE A NEW WARRANT OF EXECUTION.

28 (H) FINDING OF INCOMPETENCE.

29 (1) IF THE COURT FINDS THE INMATE TO BE INCOMPETENT, THE COURT
30 SHALL:

1 (I) STAY ANY WARRANT OF EXECUTION THAT WAS PREVIOUSLY
2 ISSUED AND HAS NOT YET EXPIRED; AND

3 (II) REMAND THE CASE TO THE COURT IN WHICH THE SENTENCE
4 OF DEATH WAS IMPOSED.

5 (2) THE COURT IN WHICH THE SENTENCE OF DEATH WAS IMPOSED
6 SHALL STRIKE THE SENTENCE OF DEATH AND ENTER IN ITS PLACE A SENTENCE OF
7 LIFE IMPRISONMENT WITHOUT THE POSSIBILITY OF PAROLE.

8 (3) THE SENTENCE OF LIFE IMPRISONMENT WITHOUT THE POSSIBILITY
9 OF PAROLE IMPOSED UNDER PARAGRAPH (2) OF THIS SUBSECTION IS MANDATORY
10 AND MAY NOT BE SUSPENDED WHOLLY OR PARTLY.

11 (I) APPEAL.

12 (1) THERE IS NO RIGHT OF APPEAL FROM AN ORDER ISSUED BY A
13 CIRCUIT COURT UNDER THIS SECTION.

14 (2) NOTWITHSTANDING PARAGRAPH (1) OF THIS SUBSECTION, EITHER
15 PARTY MAY SEEK REVIEW IN THE COURT OF APPEALS BY FILING AN APPLICATION
16 FOR LEAVE TO APPEAL IN ACCORDANCE WITH THE MARYLAND RULES.

17 (3) IF AN APPLICATION FOR LEAVE TO APPEAL IS FILED, THE COURT OF
18 APPEALS MAY STAY ANY WARRANT OF EXECUTION THAT WAS PREVIOUSLY ISSUED
19 AND HAS NOT YET EXPIRED.

20 (J) SUBSEQUENT PETITION.

21 (1) NOT EARLIER THAN 6 MONTHS AFTER A FINDING OF COMPETENCE,
22 THE INMATE MAY PETITION THE COURT FOR A REDETERMINATION OF COMPETENCE.

23 (2) THE PETITION MUST BE ACCOMPANIED BY AN AFFIDAVIT OF AT
24 LEAST ONE PSYCHIATRIST THAT:

25 (I) IS BASED, AT LEAST IN PART, ON PERSONAL EXAMINATION;

26 (II) STATES THAT IN THE PSYCHIATRIST'S MEDICAL OPINION THE
27 INMATE IS INCOMPETENT;

28 (III) STATES THAT THE INCOMPETENCE AROSE SINCE THE
29 PREVIOUS FINDING OF COMPETENCE; AND

30 (IV) STATES THE PERTINENT FACTS ON WHICH EACH OPINION IS
31 BASED, INCLUDING THE FACTS THAT SHOW THE CHANGE IN THE INMATE'S
32 CONDITION SINCE THE PREVIOUS FINDING.

33 (3) PROCEEDINGS ON A PETITION UNDER THIS SUBSECTION SHALL BE
34 IN ACCORDANCE WITH SUBSECTIONS (D) THROUGH (I) OF THIS SECTION.

35 (K) FORMS AND PROCEDURES.

1 THE MARYLAND RULES SHALL GOVERN:

2 (1) THE FORM OF PETITIONS AND ALL OTHER PLEADINGS; AND

3 (2) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, THE
4 PROCEDURES TO BE FOLLOWED BY THE CIRCUIT COURT IN DETERMINING
5 COMPETENCY OR INCOMPETENCY AND BY THE COURT OF APPEALS IN REVIEWING
6 APPLICATIONS FOR LEAVE TO APPEAL.

7 (L) EFFECT ON AUTHORITY OF GOVERNOR.

8 THIS SECTION DOES NOT AFFECT THE POWER OF THE GOVERNOR TO STAY
9 EXECUTION OF A SENTENCE OF DEATH UNDER § 3-902(F) OF THIS SUBTITLE OR TO
10 COMMUTE A SENTENCE OF DEATH UNDER ARTICLE 41, § 4-513 OF THE CODE.

11 REVISOR'S NOTE: This section is new language derived without substantive
12 change from former Art. 27, § 75A.

13 In subsection (d)(1) of this section, the reference to a "warrant of execution"
14 is substituted for the former reference to a "warrant to execute the death
15 sentence" for consistency within this subtitle.

16 In subsection (d)(7) of this section, the references to the "State's Attorney"
17 are added to state expressly that which was only implied in the former
18 reference to the "State".

19 Defined terms: "County" § 1-101

20 "Person" § 1-101

21 3-905. METHOD OF EXECUTION.

22 (A) IN GENERAL.

23 THE MANNER OF INFLECTING THE PUNISHMENT OF DEATH SHALL BE THE
24 CONTINUOUS INTRAVENOUS ADMINISTRATION OF A LETHAL QUANTITY OF AN
25 ULTRASHORT-ACTING BARBITURATE OR OTHER SIMILAR DRUG IN COMBINATION
26 WITH A CHEMICAL PARALYTIC AGENT UNTIL A LICENSED PHYSICIAN PRONOUNCES
27 DEATH ACCORDING TO ACCEPTED STANDARDS OF MEDICAL PRACTICE.

28 (B) EFFECT ON HEALTH OCCUPATIONS.

29 (1) THE ADMINISTRATION OF THE LETHAL SUBSTANCES REQUIRED BY
30 THIS SECTION IS NOT THE PRACTICE OF MEDICINE.

31 (2) NOTWITHSTANDING ANY OTHER LAW, A PHARMACIST OR
32 PHARMACEUTICAL SUPPLIER MAY DISPENSE DRUGS, WITHOUT A PRESCRIPTION, TO
33 THE COMMISSIONER OR THE COMMISSIONER'S DESIGNEE TO CARRY OUT THIS
34 SECTION.

35 REVISOR'S NOTE: This section formerly was Art. 27, § 71.

1 The only changes are in style.

2 Defined term: "Commissioner" § 3-101

3 3-906. ADMINISTRATION OF LETHAL INJECTION.

4 (A) DUTIES OF COMMISSIONER.

5 THE COMMISSIONER SHALL:

6 (1) PROVIDE A SUITABLE AND EFFICIENT PLACE, ENCLOSED FROM
7 PUBLIC VIEW, IN WHICH AN EXECUTION MAY BE CARRIED OUT;

8 (2) PROVIDE ALL OF THE MATERIALS THAT ARE NECESSARY TO
9 PERFORM THE EXECUTION; AND

10 (3) SUBJECT TO SUBSECTION (C) OF THIS SECTION, SELECT THE
11 INDIVIDUALS TO PERFORM THE EXECUTION.

12 (B) SUPERVISION.

13 THE COMMISSIONER OR THE COMMISSIONER'S DESIGNEE SHALL SUPERVISE
14 THE EXECUTION.

15 (C) LETHAL INJECTION.

16 (1) AN EXECUTION SHALL BE PERFORMED BY INDIVIDUALS WHO ARE
17 SELECTED BY THE COMMISSIONER AND TRAINED TO ADMINISTER THE LETHAL
18 INJECTION.

19 (2) AN INDIVIDUAL WHO ADMINISTERS THE PARALYTIC AGENT AND
20 LETHAL INJECTION NEED NOT BE LICENSED OR CERTIFIED AS ANY TYPE OF HEALTH
21 CARE PRACTITIONER UNDER THE HEALTH OCCUPATIONS ARTICLE.

22 REVISOR'S NOTE: This section is new language derived without substantive
23 change from former Art. 27, § 72.

24 In subsection (a)(1) of this section, the former reference to a "room" is
25 deleted as included in the broad reference to a "place".

26 In subsection (a)(2) of this section, the reference to "materials" necessary to
27 carry out the death penalty is substituted for the former reference to
28 "implements" for consistency with § 3-905 of this subtitle, which requires
29 that a sentence of death be executed by lethal injection of certain drugs.

30 In subsections (a)(3) and (c)(1) and (2) of this section, the references to
31 "individuals" and "individual" are substituted for the former references to
32 "person" and "persons", respectively, because only human beings, and not
33 the other entities included in the defined term "person", can perform an
34 execution. See § 1-101 of this article for the definition of "person".

1 Defined term: "Commissioner" § 3-101

2 3-907. WITNESSES.

3 (A) REQUIRED WITNESSES.

4 IN ADDITION TO THOSE INDIVIDUALS WHO ARE OTHERWISE REQUIRED TO
5 SUPERVISE, PERFORM, OR PARTICIPATE IN AN EXECUTION, THE COMMISSIONER
6 SHALL SELECT AT LEAST 6 BUT NOT MORE THAN 12 RESPECTABLE CITIZENS TO
7 OBSERVE THE EXECUTION.

8 (B) OPTIONAL WITNESSES.

9 COUNSEL FOR THE INMATE AND A MEMBER OF THE CLERGY MAY BE PRESENT
10 AT THE EXECUTION.

11 REVISOR'S NOTE: This section formerly was Art. 27, § 73.

12 The only changes are in style.

13 Defined terms: "Commissioner" § 3-101

14 "Inmate" § 1-101

15 3-908. CERTIFICATE.

16 THE COMMISSIONER SHALL:

17 (1) PREPARE AND SIGN A CERTIFICATE THAT STATES:

18 (I) THE TIME AND PLACE OF EXECUTION; AND

19 (II) THAT THE EXECUTION WAS CONDUCTED IN ACCORDANCE
20 WITH THE SENTENCE OF THE COURT AND THE PROVISIONS OF THIS SUBTITLE;

21 (2) REQUEST THAT EACH WITNESS OF THE EXECUTION SIGN THE
22 CERTIFICATE; AND

23 (3) FILE THE CERTIFICATE WITHIN 10 DAYS AFTER THE EXECUTION
24 WITH THE CLERK OF THE COURT IN THE COUNTY IN WHICH THE INMATE WAS
25 INDICTED.

26 REVISOR'S NOTE: This section is new language derived without substantive
27 change from former Art. 27, § 79.

28 The reference to the "Commissioner" is substituted for the former
29 reference to the "warden" for consistency within this subtitle.

30 In item (3) of this section, the former requirement that the Commissioner
31 "cause" the certificate to be filed is deleted as surplusage.

1 Defined terms: "Commissioner" § 3-101

2 "County" § 1-101

3 "Inmate" § 1-101

4 3-909. DISPOSITION OF BODY.

5 (A) RETURN TO RELATIVE.

6 ON APPLICATION OF A RELATIVE, THE BODY OF AN EXECUTED INMATE SHALL
7 BE RETURNED TO THE RELATIVE AT THE RELATIVE'S COST.

8 (B) BURIAL.

9 IF AN APPLICATION IS NOT MADE UNDER SUBSECTION (A) OF THIS SECTION,
10 THE COMMISSIONER SHALL ARRANGE FOR BURIAL.

11 REVISOR'S NOTE: This section is new language derived without substantive
12 change from former Art. 27, § 78.

13 In subsection (a) of this section, the reference to delivering the body to a
14 "relative" is substituted for the former reference to delivering the body to a
15 "[relative's] address" for clarity.

16 In subsection (b) of this section, the reference to the "Commissioner" is
17 substituted for the former reference to the "warden" for consistency within
18 this subtitle.

19 Defined terms: "Commissioner" § 3-101

20 "Inmate" § 1-101

21 TITLE 4. PATUXENT INSTITUTION.

22 SUBTITLE 1. DEFINITIONS.

23 4-101. DEFINITIONS.

24 (A) IN GENERAL.

25 IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

26 REVISOR'S NOTE: This subsection formerly was Art. 31B, § 1(a).

27 The former phrase "unless the context clearly requires otherwise" is
28 deleted as a standard rule of statutory construction.

29 The substitution of the reference to this "title" for the former reference to
30 this "article" makes these definitions applicable to the statutory provisions
31 relating to the Youth Program, which were formerly codified in a separate
32 article. No substantive change is intended.

33 (B) BOARD OF REVIEW.

1 "BOARD OF REVIEW" MEANS THE INSTITUTIONAL BOARD OF REVIEW CREATED
2 UNDER § 4-205 OF THIS TITLE.

3 REVISOR'S NOTE: This subsection formerly was Art. 31B, § 1(b).

4 The only changes are in style.

5 (C) COMMISSIONER.

6 "COMMISSIONER" MEANS THE COMMISSIONER OF CORRECTION.

7 REVISOR'S NOTE: This subsection formerly was Art. 31B, § 1(c).

8 No changes are made.

9 Defined term: "Commissioner of Correction" § 1-101

10 (D) DIRECTOR.

11 "DIRECTOR" MEANS THE DIRECTOR OF THE PATUXENT INSTITUTION.

12 REVISOR'S NOTE: This subsection formerly was Art. 31B, § 1(e).

13 The only changes are in style.

14 (E) ELIGIBLE PERSON.

15 (1) "ELIGIBLE PERSON" MEANS AN INDIVIDUAL WHO:

16 (I) HAS BEEN CONVICTED OF A CRIME AND IS SERVING A
17 SENTENCE OF IMPRISONMENT WITH AT LEAST 3 YEARS REMAINING ON THE
18 SENTENCE;

19 (II) HAS AN INTELLECTUAL IMPAIRMENT OR EMOTIONAL
20 IMBALANCE;

21 (III) IS LIKELY TO RESPOND FAVORABLY TO THE PROGRAMS AND
22 SERVICES THAT THE INSTITUTION PROVIDES;

23 (IV) CAN BETTER RESPOND TO REMEDIATION THROUGH THOSE
24 PROGRAMS AND SERVICES THAN BY OTHER INCARCERATION; AND

25 (V) MEETS THE ELIGIBILITY CRITERIA THAT THE SECRETARY
26 ESTABLISHES UNDER § 4-208(B) OF THIS TITLE.

27 (2) "ELIGIBLE PERSON" DOES NOT INCLUDE AN INDIVIDUAL WHO:

28 (I) IS SERVING TWO OR MORE SENTENCES OF IMPRISONMENT FOR
29 LIFE UNDER ARTICLE 27, § 412 OF THE CODE;

1 (II) IS SERVING ONE OR MORE SENTENCES OF IMPRISONMENT FOR
 2 LIFE WHEN A COURT OR JURY HAS FOUND UNDER ARTICLE 27, § 413 OF THE CODE,
 3 BEYOND A REASONABLE DOUBT, THAT ONE OR MORE AGGRAVATING
 4 CIRCUMSTANCES EXISTED; OR

5 (III) HAS BEEN CONVICTED OF MURDER IN THE FIRST DEGREE,
 6 RAPE IN THE FIRST DEGREE, OR A SEXUAL OFFENSE IN THE FIRST DEGREE, UNLESS
 7 THE SENTENCING JUDGE, AT THE TIME OF SENTENCING OR IN THE EXERCISE OF
 8 THE JUDGE'S REVISORY POWER UNDER THE MARYLAND RULES, RECOMMENDS THAT
 9 THE INDIVIDUAL BE REFERRED TO THE INSTITUTION FOR EVALUATION.

10 REVISOR'S NOTE: This subsection is new language derived without
 11 substantive change from former Art. 31B, § 1(f).

12 In the introductory language of paragraphs (1) and (2) and in paragraph
 13 (2)(iii) of this subsection, the references to an "individual" are substituted
 14 for the former references to a "person" because only a human being, and
 15 not the other entities included in the defined term "person", can be
 16 confined at the Patuxent Institution. See § 1-101 of this article for the
 17 definition of "person".

18 In paragraph (1)(ii) of this subsection, the reference to an emotional
 19 "imbalance" is substituted for the former reference to an emotional
 20 "unbalance" for clarity.

21 In paragraph (1)(v) of this subsection, the reference to eligibility criteria
 22 established by the Secretary under "§ 4-208(b) of this title" is substituted
 23 for the former reference to eligibility criteria established by the Secretary
 24 under former "[Art. 31B,] § 8" (revised in § 4-301 of this title) because
 25 former Art. 31B, § 8(a) (revised in § 4-301(a)(1)(v) of this title) simply
 26 referred back to eligibility criteria established by the Secretary under
 27 former Art. 31B, § 4A(c) (revised in § 4-208(b) of this title).

28 Defined terms: "Institution" § 4-101

29 "Secretary" § 1-101

30 (F) EVALUATION TEAM.

31 "EVALUATION TEAM" MEANS A TEAM OF AT LEAST THREE PROFESSIONAL
 32 EMPLOYEES OF THE INSTITUTION, ONE OF WHOM SHALL BE A SOCIAL WORKER, ONE
 33 OF WHOM SHALL BE A PSYCHOLOGIST, AND ONE OF WHOM SHALL BE A
 34 PSYCHIATRIST.

35 REVISOR'S NOTE: This subsection formerly was Art. 31B, § 1(g).

36 The only changes are in style.

37 Defined term: "Institution" § 4-101

38 (G) INSTITUTION.

1 "INSTITUTION" MEANS THE PATUXENT INSTITUTION.

2 REVISOR'S NOTE: This subsection formerly was Art. 31B, § 1(h).

3 No changes are made.

4 (H) REMEDIATION.

5 "REMEDICATION" MEANS TREATMENT FOR SPECIFIC AREAS OF MENTAL AND
6 SOCIAL DEFICIENCIES THAT ARE HIGHLY RELATED TO CRIMINAL BEHAVIOR.

7 REVISOR'S NOTE: This subsection formerly was Art. 31B, § 1(i).

8 The only changes are in style.

9 (I) VICTIM.

10 "VICTIM" MEANS:

11 (1) AN INDIVIDUAL WHO SUFFERS PERSONAL PHYSICAL INJURY OR
12 DEATH AS A DIRECT RESULT OF A CRIME; OR

13 (2) IF THE VICTIM IS DECEASED, A DESIGNATED FAMILY MEMBER OF
14 THE VICTIM.

15 REVISOR'S NOTE: This subsection formerly was Art. 31B, § 1(k).

16 In item (1) of this subsection, the reference to an "individual" is substituted
17 for the former reference to "person" because only a human being, and not
18 the other entities included in the defined term "person", can suffer
19 personal physical injury or death. See § 1-101 of this article for the
20 definition of "person".

21 No other changes are made.

22 SUBTITLE 2. GENERAL PROVISIONS.

23 4-201. ESTABLISHMENT.

24 THERE IS A PATUXENT INSTITUTION IN THE DEPARTMENT.

25 REVISOR'S NOTE: This section is standard language substituted for former
26 Art. 31B, § 2(a).

27 Defined term: "Department" § 1-101

28 4-202. PURPOSE.

29 (A) IN GENERAL.

1 THE PURPOSE OF THE INSTITUTION IS TO PROVIDE REMEDIATION PROGRAMS
2 AND SERVICES TO YOUTHFUL ELIGIBLE PERSONS, INCLUDING A RANGE OF
3 PROGRAM ALTERNATIVES INDICATED BY THE CURRENT STATE OF KNOWLEDGE TO
4 BE APPROPRIATE AND EFFECTIVE FOR THE POPULATION BEING SERVED.

5 (B) RESEARCH, DEVELOPMENT, AND TRAINING.

6 THE INSTITUTION SHALL ESTABLISH AND MAINTAIN, AS AN INTEGRAL PART OF
7 THE PROGRAMS, AN EFFECTIVE RESEARCH, DEVELOPMENT, AND TRAINING EFFORT
8 TO EVALUATE AND RECOMMEND IMPROVEMENTS ON AN ONGOING BASIS.

9 (C) REMEDIATION PROGRAMS.

10 (1) NO MORE THAN 350 ELIGIBLE PERSONS MAY BE ENROLLED IN THE
11 ELIGIBLE PERSON REMEDIATION PROGRAM.

12 (2) THE INSTITUTION MAY PROVIDE OTHER REMEDIATION PROGRAMS
13 THAT THE SECRETARY DESIGNATES.

14 REVISOR'S NOTE: This section is new language derived without substantive
15 change from former Art. 31B, § 2(b) and (c).

16 In subsection (b) of this section, the reference to "[t]he Institution" is added
17 to state expressly that which was only implied in the former law, i.e., the
18 Patuxent Institution is responsible for establishing and maintaining a
19 research, development, and training effort.

20 Also in subsection (b) of this section, the reference to "programs" is
21 substituted for the former reference to "program" for consistency with
22 subsections (a) and (c)(2) of this section.

23 Defined terms: "Eligible person" § 4-101

24 "Institution" § 4-101

25 "Remediation" § 4-101

26 "Secretary" § 1-101

27 4-203. DIRECTOR.

28 (A) CHIEF ADMINISTRATIVE OFFICER.

29 THE DIRECTOR IS THE CHIEF ADMINISTRATIVE OFFICER OF THE INSTITUTION.

30 (B) APPOINTMENT; QUALIFICATIONS; TERM; COMPENSATION.

31 (1) THE SECRETARY SHALL APPOINT THE DIRECTOR.

32 (2) THE DIRECTOR SHALL BE A TRAINED AND COMPETENT
33 ADMINISTRATOR.

34 (3) THE DIRECTOR SERVES AT THE PLEASURE OF THE SECRETARY.

1 (4) THE DIRECTOR IS ENTITLED TO THE COMPENSATION PROVIDED IN
2 THE STATE BUDGET.

3 (C) MANAGEMENT AND SUPERVISION.

4 SUBJECT TO THE AUTHORITY OF THE SECRETARY, THE DIRECTOR SHALL
5 MANAGE AND SUPERVISE THE INSTITUTION AND IMPLEMENT ITS PROGRAMS AND
6 SERVICES.

7 (D) ANNUAL REPORT.

8 (1) ON OR BEFORE OCTOBER 31 OF EACH YEAR, THE DIRECTOR SHALL
9 SUBMIT AN ANNUAL REPORT TO THE SECRETARY AND THE GOVERNOR.

10 (2) THE ANNUAL REPORT SHALL STATE:

11 (I) THE INSTITUTION'S EXPENSES, RECEIPTS, DISBURSEMENTS,
12 CONDITION, AND PROGRESS;

13 (II) THE NUMBER OF INMATES AND EACH INMATE'S AGE, SEX,
14 RACE, PLACE OF BIRTH AND CONVICTION, CRIME, AND TERM OF CONFINEMENT;

15 (III) THE NUMBER OF INMATES WHO ESCAPE, ARE PARDONED, OR
16 DISCHARGED;

17 (IV) THE NUMBER OF ELIGIBLE PERSONS AND NONELIGIBLE
18 PERSONS EVALUATED AT THE INSTITUTION;

19 (V) THE DECISIONS OF THE BOARD OF REVIEW TO GRANT LEAVE
20 TO ELIGIBLE PERSONS;

21 (VI) THE NUMBER OF REARRESTS, RECONVICTIONS,
22 REINCARCERATIONS, AND PAROLE VIOLATIONS OF INDIVIDUALS FORMERLY
23 CONFINED AT THE INSTITUTION;

24 (VII) THE NUMBER OF ELIGIBLE PERSONS CONFINED AT THE
25 INSTITUTION WHO ARE RETURNED TO THE DIVISION OF CORRECTION FOR MAJOR
26 VIOLATIONS OF THE INSTITUTION'S DISCIPLINARY RULES;

27 (VIII) INFORMATION ON THE TYPE OF MAJOR VIOLATION
28 NECESSITATING AN INDIVIDUAL'S TRANSFER TO THE DIVISION OF CORRECTION AS
29 DESCRIBED IN ITEM (VI) OF THIS PARAGRAPH;

30 (IX) INFORMATION ON EDUCATIONAL PROGRAMS AND COMMUNITY
31 REENTRY ACTIVITIES; AND

32 (X) ANY REMARKS AND SUGGESTIONS THE DIRECTOR CONSIDERS
33 NECESSARY TO ADVANCE THE INTERESTS OF THE INSTITUTION.

34 (3) THE DIRECTOR SHALL VERIFY THE REPORT REQUIRED BY THIS
35 SUBSECTION.

1 (4) SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE
2 GOVERNOR SHALL SUBMIT TO THE GENERAL ASSEMBLY THE REPORT REQUIRED
3 UNDER THIS SUBSECTION AND ANY RECOMMENDATION THAT THE GOVERNOR
4 CONSIDERS EXPEDIENT.

5 (5) THE SECRETARY SHALL ADOPT REGULATIONS REGARDING THE
6 ANNUAL REPORT REQUIRED UNDER THIS SUBSECTION.

7 REVISOR'S NOTE: This section is new language derived without substantive
8 change from former Art. 27, § 678, as it related to the Patuxent Institution,
9 and former Art. 31B, § 4.

10 In subsection (c) of this section, the word "shall" is substituted for the
11 former phrase "has the authority necessary to" for consistency throughout
12 this title in referring to the Director's duties.

13 The part of former Art. 27, § 678 that related to the Patuxent Institution
14 has been revised in subsection (d) of this section. The remainder of former
15 Art. 27, § 678 is revised in § 3-207 of this article.

16 In subsection (d)(2)(ii) of this section, the reference to an inmate's "race" is
17 substituted for the former reference to an inmate's "color" for clarity.

18 Also in subsection (d)(2)(ii) of this section, the reference to a "crime" is
19 substituted for the former reference to an "offense" for consistency
20 throughout this article. See General Revisor's Note to this article.

21 In subsection (d)(2)(iv), (vi), and (vii) of this section, the former references
22 to the "total" number of eligible and noneligible persons, rearrests,
23 reconvictions, etc., are deleted as implicit in the references to the "number"
24 of eligible and noneligible persons, rearrests, reconvictions, etc.

25 In subsection (d)(2)(vi) and (vii) of this section, the references to
26 individuals who are "confined" are substituted for the former references to
27 individuals who are "incarcerated" for consistency throughout this article.
28 See General Revisor's Note to this article.

29 In subsection (d)(2)(vi) and (viii) of this section, the references to an
30 "individual" are substituted for the former references to "persons" and
31 "person's" because only a human being, and not the other entities included
32 in the defined term "person", can be arrested, convicted, or confined, etc.
33 See § 1-101 of this article for the definition of "person".

34 In subsection (d)(3) of this section, the requirement that the report be
35 "verif[ied]" is substituted for the former requirement that the report be
36 "duly sworn to" for consistency with similar provisions in other revised
37 articles of the Code. See General Revisor's Note to this article.

38 Also in subsection (d)(3) of this section, the requirement that the report be
39 verified by the "Director" is substituted for the former requirement that

1 the report be verified by the "Commissioner of Correction" for consistency
2 with subsection (d)(1) of this section, which requires that the Director
3 submit the report to the Secretary and Governor.

4 In subsection (d)(5) of this section, the requirement that the "Secretary"
5 adopt regulations is substituted for the former requirement that the
6 "Department" adopt regulations for consistency with §§ 4-208(a) and
7 4-401(i) of this title.

8 Also in subsection (d)(5) of this section, the former requirement that the
9 Department "publish" regulations is deleted as unnecessary in light of the
10 requirements of Title 10, Subtitle 1 of the State Government Article
11 regarding publication of proposed regulations.

12 As to regulations relating to the Annual Report required by subsection
13 (d)(5) of this section, see COMAR 12.12.15.01 and .02.

14 Defined terms: "Board of Review" § 4-101

15 "Department" § 1-101

16 "Director" § 4-101

17 "Division of Correction" § 1-101

18 "Eligible person" § 4-101

19 "Inmate" § 1-101

20 "Institution" § 4-101

21 "Secretary" § 1-101

22 4-204. STAFF.

23 (A) IN GENERAL.

24 THE INSTITUTION SHALL HAVE THE FOLLOWING STAFF:

25 (1) TWO ASSOCIATE DIRECTORS, ONE OF WHOM IS A COMPETENT
26 PSYCHIATRIST WITH AT LEAST 3 YEARS OF EXPERIENCE IN THE PRACTICE OR
27 TEACHING OF PSYCHIATRY AND ONE OF WHOM IS A COMPETENT BEHAVIORAL
28 SCIENTIST WITH AT LEAST 3 YEARS OF EXPERIENCE IN THE PRACTICE OR TEACHING
29 OF THE INDIVIDUAL'S SPECIALTY IN BEHAVIORAL SCIENCE;

30 (2) A WARDEN;

31 (3) AT LEAST THREE ADDITIONAL PSYCHIATRISTS OR CLINICAL
32 PSYCHOLOGISTS;

33 (4) AT LEAST FOUR STATE LICENSED CERTIFIED SOCIAL
34 WORKERS-CLINICAL; AND

35 (5) OTHER PROFESSIONAL AND NONPROFESSIONAL STAFF, AS
36 PROVIDED IN THE STATE BUDGET.

37 (B) DUTIES.

1 (1) THE ASSOCIATE DIRECTORS SHALL ASSIST PRIMARILY IN
 2 DISCHARGING THE DIAGNOSTIC AND REMEDIATION FUNCTIONS OF THE
 3 INSTITUTION.

4 (2) THE WARDEN SHALL ASSIST PRIMARILY IN DISCHARGING THE
 5 CUSTODIAL FUNCTION OF THE INSTITUTION.

6 (C) COMPENSATION.

7 THE STAFF MEMBERS OF THE INSTITUTION ARE ENTITLED TO COMPENSATION
 8 AS PROVIDED IN THE STATE BUDGET.

9 (D) APPOINTMENTS; STATE PERSONNEL MANAGEMENT SYSTEM.

10 (1) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION OR
 11 ANY OTHER LAW, THE STAFF MEMBERS OF THE INSTITUTION ARE IN THE SKILLED
 12 SERVICE OR PROFESSIONAL SERVICE IN THE STATE PERSONNEL MANAGEMENT
 13 SYSTEM.

14 (2) WITH THE APPROVAL OF THE SECRETARY, THE DIRECTOR SHALL
 15 APPOINT AN INDIVIDUAL TO ANY POSITION THAT THE SECRETARY DETERMINES TO
 16 BE PROFESSIONAL, INCLUDING:

17 (I) EACH ASSOCIATE DIRECTOR;

18 (II) EACH SOCIAL WORKER;

19 (III) EACH SOCIOLOGIST;

20 (IV) EACH PHYSICIAN; AND

21 (V) EACH PSYCHOLOGIST.

22 (3) THE DIRECTOR AND EACH INDIVIDUAL APPOINTED UNDER
 23 PARAGRAPH (2) OF THIS SUBSECTION ARE IN THE EXECUTIVE SERVICE, IN THE
 24 MANAGEMENT SERVICE, OR A SPECIAL APPOINTMENT IN THE STATE PERSONNEL
 25 MANAGEMENT SYSTEM.

26 REVISOR'S NOTE: This section is new language derived without substantive
 27 change from former Art. 31B, § 5.

28 In subsection (c) of this section, the reference to "compensation" is
 29 substituted for the former reference to "salaries" for consistency
 30 throughout this article. See General Revisor's Note to this article.

31 In subsection (d)(1) of this section, the reference to staff "members" is
 32 added for grammatical consistency within the sentence.

33 In subsection (d)(2) of this section, the former reference to the Director
 34 "appoint[ing] ... the director" is deleted as circuitous and for consistency
 35 with § 4-203(b)(1) of this subtitle, which requires that the Secretary

1 appoint the Director.

2 Defined terms: "Director" § 4-101

3 "Institution" § 4-101

4 "Remediation" § 4-101

5 4-205. BOARD OF REVIEW.

6 (A) ESTABLISHED.

7 THERE IS A BOARD OF REVIEW FOR THE INSTITUTION.

8 (B) COMPOSITION.

9 THE BOARD OF REVIEW CONSISTS OF THE FOLLOWING NINE MEMBERS:

10 (1) THE DIRECTOR;

11 (2) THE TWO ASSOCIATE DIRECTORS;

12 (3) THE WARDEN; AND

13 (4) FIVE MEMBERS OF THE PUBLIC, ONE OF WHOM IS A MEMBER OF A
14 VICTIM'S RIGHTS ORGANIZATION, APPOINTED BY THE GOVERNOR WITH THE ADVICE
15 AND CONSENT OF THE SENATE.

16 (C) CHAIRPERSON.

17 THE GOVERNOR SHALL DESIGNATE THE CHAIRPERSON OF THE BOARD OF
18 REVIEW.

19 (D) QUORUM; ACTION REQUIRING MAJORITY VOTE.

20 (1) SEVEN MEMBERS OF THE BOARD OF REVIEW, INCLUDING AT LEAST
21 THREE PUBLIC MEMBERS, CONSTITUTE A QUORUM.

22 (2) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS
23 PARAGRAPH, EACH ACTION OF THE BOARD OF REVIEW REQUIRES THE APPROVAL OF
24 A MAJORITY OF THE MEMBERS.

25 (II) A DECISION TO GRANT PAROLE, WORK RELEASE, OR LEAVE TO
26 AN ELIGIBLE PERSON REQUIRES THE APPROVAL OF SEVEN MEMBERS OF THE BOARD
27 OF REVIEW.

28 (E) COMPENSATION.

29 (1) EMPLOYEES OF THE INSTITUTION WHO ARE MEMBERS OF THE
30 BOARD OF REVIEW OR WHO ATTEND MEETINGS OF OR WORK AS ADVISORS TO THE
31 BOARD OF REVIEW SHALL SERVE IN THAT CAPACITY AS PART OF THEIR REGULAR
32 DUTIES WITHOUT ADDITIONAL COMPENSATION.

1 (2) THE MEMBERS OF THE BOARD OF REVIEW APPOINTED FROM THE
2 PUBLIC ARE ENTITLED TO COMPENSATION AS PROVIDED IN THE STATE BUDGET.

3 (F) TERMS.

4 THE TERM OF A MEMBER OF THE BOARD OF REVIEW APPOINTED FROM THE
5 PUBLIC IS 4 YEARS.

6 (G) DUTIES.

7 THE BOARD OF REVIEW SHALL PERFORM THE DUTIES SET FORTH IN THIS
8 TITLE.

9 REVISOR'S NOTE: This section is new language derived without substantive
10 change from former Art. 31B, § 6.

11 In subsection (b)(3) of this section, the reference to "the warden" is
12 substituted for the former reference to "[a] warden" because the Institution
13 only has one warden. The Correctional Services Article Review Committee
14 calls this substitution to the attention of the General Assembly.

15 In subsections (b)(4) and (d)(1) of this section, the former references to the
16 "general" public are deleted as implicit in the reference to the "public" and
17 for consistency throughout this article. See General Revisor's Note to this
18 article.

19 The Correctional Services Article Review Committee notes, for
20 consideration by the General Assembly, that subsection (d)(2)(i) of this
21 section is ambiguous. The requirement that actions of the Board of Review
22 require approval "of a majority of the members" could mean four members,
23 if the "majority" is of a quorum, or five members, if the "majority" is of the
24 authorized membership of the Board. The General Assembly may wish to
25 substitute a specific number for the reference to "a majority of the"
26 members.

27 In subsection (e)(2) of this section, the reference to the members "appointed
28 from the public" is substituted for the former reference to "other" members
29 for consistency with subsections (b)(4) and (d)(1) of this section.

30 In subsection (g) of this section, the reference to this "title" is substituted
31 for the former reference to this "article". Although the substituted
32 reference is technically broader in scope, this change imposes no additional
33 duties on the Board of Review.

34 The second sentence of former Art. 31B, § 6(e), which authorized
35 reappointment of a public member, is deleted as unnecessary. As a general
36 rule, the right to serve successive terms is not limited, absent an express
37 provision to the contrary. See, e.g., the Revisor's Notes to BR §§ 3-304 and
38 11-202 and LE §§ 5-303, 8-308, and 9-302.

1 Defined terms: "Board of Review" § 4-101

2 "Director" § 4-101

3 "Eligible person" § 4-101

4 "Institution" § 4-101

5 "Victim" § 4-101

6 4-206. CONFLICTS OF INTEREST.

7 (A) PROHIBITIONS.

8 A MEMBER OF THE BOARD OF REVIEW, THE DIRECTOR, OR AN EMPLOYEE OF
9 THE INSTITUTION MAY NOT:

10 (1) BE INTERESTED, DIRECTLY OR INDIRECTLY, IN ANY CONTRACT,
11 PURCHASE, OR SALE MADE BY OR FOR THE INSTITUTION OR AN INMATE OF THE
12 INSTITUTION;

13 (2) ACCEPT A REWARD OR GIFT OR A PROMISE OF A REWARD OR GIFT
14 FROM A PERSON INTERESTED IN A CONTRACT, PURCHASE, OR SALE MADE BY OR FOR
15 THE INSTITUTION OR AN INMATE OF THE INSTITUTION; OR

16 (3) ACCEPT A REWARD, GIFT, DEVISE, OR BEQUEST OR A PROMISE OF A
17 REWARD, GIFT, DEVISE, OR BEQUEST FROM AN INMATE OF THE INSTITUTION OR
18 FROM ANYONE ON THE INMATE'S BEHALF.

19 (B) VOID ACTS.

20 (1) A REWARD, GIFT, DEVISE, BEQUEST, OR PROMISE ACCEPTED IN
21 VIOLATION OF THIS SECTION IS VOID.

22 (2) A CONTRACT, PURCHASE, OR SALE IN WHICH A PERSON HAS AN
23 INTEREST PROHIBITED BY SUBSECTION (A) OF THIS SECTION IS VOIDABLE BY THE
24 STATE WHETHER OR NOT THE STATE IS A PARTY TO IT.

25 (C) REPORTS OF VIOLATIONS.

26 A MEMBER OF THE BOARD OF REVIEW, THE DIRECTOR, OR AN EMPLOYEE OF
27 THE INSTITUTION SHALL REPORT TO THE DIRECTOR OR THE SECRETARY ANY
28 VIOLATION OF SUBSECTION (A) OF THIS SECTION THAT IS WITHIN THE INDIVIDUAL'S
29 KNOWLEDGE.

30 (D) MISCONDUCT IN OFFICE; GROUNDS FOR REMOVAL.

31 (1) AN INDIVIDUAL WHO VIOLATES THIS SECTION IS GUILTY OF
32 MISCONDUCT IN OFFICE.

33 (2) A VIOLATION OF THIS SECTION IS GROUNDS FOR REMOVAL FROM
34 OFFICE OR EMPLOYMENT.

35 REVISOR'S NOTE: This section is new language derived without substantive
36 change from former Art. 31B, § 7.

1 In subsection (a)(1) of this section, the former reference to an individual
2 who is directly or indirectly "concerned" in any contract, purchase, or sale
3 is deleted as redundant of the reference to an individual who is directly or
4 indirectly "interested" in any contract, purchase, or sale and for
5 consistency with subsections (a)(2) and (b)(2) of this section.

6 In subsection (d)(1) of this section, the reference to an "individual ... [being]
7 guilty of" misconduct in office is substituted for the former reference to a
8 "violation ... constitut[ing]" misconduct in office to state expressly that
9 which was only implied in the former law, i.e., an individual who violates
10 this section is guilty of the common law crime known as "misconduct in
11 office". See Chester v. State, 32 Md. App. 593, 363 A.2d 605 (1976).

12 Defined terms: "Board of Review" § 4-101

13 "Director" § 4-101

14 "Inmate" § 1-101

15 "Institution" § 4-101

16 "Person" § 1-101

17 "Secretary" § 1-101

18 4-207. CITIZENS ADVISORY BOARD.

19 (A) ESTABLISHED.

20 THERE IS A CITIZENS ADVISORY BOARD.

21 (B) APPOINTMENT.

22 BASED ON RECOMMENDATIONS OF THE SECRETARY, THE GOVERNOR SHALL
23 APPOINT THE MEMBERS OF THE CITIZENS ADVISORY BOARD.

24 (C) DUTIES.

25 THE CITIZENS ADVISORY BOARD SHALL ADVISE THE DIRECTOR AND THE
26 SECRETARY WITH RESPECT TO THE OPERATION AND PROGRAMS OF THE
27 INSTITUTION.

28 REVISOR'S NOTE: Subsection (a) of this section is standard language added to
29 establish the Citizens Advisory Board.

30 Subsections (b) and (c) of this section are new language derived without
31 substantive change from former Art. 31B, § 3.

32 In subsection (b) of this section, the reference to appointing "the members
33 of" the Citizens Advisory Board is added to state expressly that which was
34 formerly only implied in the reference to appointing the "Citizens Advisory
35 Board".

36 Defined terms: "Director" § 4-101

37 "Institution" § 4-101

1 "Secretary" § 1-101

2 4-208. REGULATIONS.

3 (A) IN GENERAL.

4 THE SECRETARY SHALL ADOPT REGULATIONS TO CARRY OUT THIS TITLE.

5 (B) COMPLIANCE WITH ADMINISTRATIVE PROCEDURE ACT.

6 NOTWITHSTANDING § 10-101(G)(2)(I) OF THE STATE GOVERNMENT ARTICLE, THE
7 REGULATIONS ADOPTED UNDER THIS SECTION, OTHER THAN REGULATIONS
8 PERTAINING ONLY TO ROUTINE INTERNAL MANAGEMENT OF THE INSTITUTION,
9 SHALL COMPLY WITH THE ADMINISTRATIVE PROCEDURE ACT, INCLUDING
10 REGULATIONS THAT:

11 (1) GOVERN CRITERIA TO DETERMINE ELIGIBILITY FOR REFERRAL OF
12 AN INMATE TO THE INSTITUTION;

13 (2) GOVERN LEAVE, WORK RELEASE, AND PAROLE FROM THE
14 INSTITUTION; AND

15 (3) ESTABLISH WITH SPECIFICITY WHAT CONSTITUTES A MAJOR
16 VIOLATION OF THE INSTITUTION'S DISCIPLINARY RULES.

17 REVISOR'S NOTE: This section is new language derived without substantive
18 change from former Art. 31B, § 4A.

19 In subsection (a) of this section, the reference to "this title" is substituted
20 for the former reference to "this article" to reflect the new structure of the
21 revised article. The reference to "this title" is technically broader than the
22 former reference to "this article" because this title includes provisions that
23 are based on former Art. 27, §§ 678 and 690A, in addition to provisions that
24 are based on former Art. 31B. However, this substitution does not affect a
25 substantive change because the Secretary also had authority to adopt
26 regulations to implement former Art. 27, §§ 678 and 690A. See §§
27 4-203(d)(5) and 4-401(i) of this title.

28 Also in subsection (a) of this section, the former reference to adopting
29 regulations "necessary" to carry out this title is deleted as implicit in the
30 requirement to adopt regulations "to carry out this title" and as
31 unnecessary in light of the requirements governing the adoption of
32 regulations set forth in Title 10, Subtitle 1 of the State Government
33 Article.

34 Defined terms: "Inmate" § 1-101

35 "Institution" § 4-101

36 "Secretary" § 1-101

1 4-209. INMATE RECORD.

2 (A) IN GENERAL.

3 THE INSTITUTION SHALL COMPILE AND MAINTAIN A COMPLETE RECORD OF
4 EACH INMATE TRANSFERRED TO IT FOR EVALUATION OR TREATMENT.

5 (B) CONTENTS.

6 THE RECORD SHALL INCLUDE THE FOLLOWING MATERIALS TO THE EXTENT
7 THAT THE MATERIALS ARE PHYSICALLY AVAILABLE AND THE INCLUSION IS NOT
8 PROHIBITED BY FEDERAL LAW:

9 (1) POLICE REPORTS AND OTHER RELEVANT INFORMATION
10 CONCERNING THE CRIME OF WHICH THE INMATE WAS MOST RECENTLY CONVICTED
11 AND THE SENTENCE IMPOSED FOR THAT CONVICTION;

12 (2) THE INMATE'S CRIMINAL AND JUVENILE HISTORY AND ALL
13 RELEVANT RECORDS CONCERNING THIS HISTORY;

14 (3) PRESENTENCE INVESTIGATION, PAROLE, PROBATION, AND OTHER
15 REPORTS CONCERNING THE INMATE;

16 (4) SCHOOL RECORDS;

17 (5) INFORMATION CONCERNING THE INMATE'S MEDICAL AND MENTAL
18 HEALTH HISTORY, INCLUDING RELEVANT MEDICAL AND HOSPITAL RECORDS AND
19 REPORTS; AND

20 (6) ALL OTHER RELEVANT INFORMATION, RECORDS, AND REPORTS
21 CONCERNING THE INMATE'S SOCIAL, PHYSICAL, OR MENTAL CONDITION AND
22 HISTORY.

23 (C) DESCRIPTION; PHOTOGRAPHS.

24 (1) THE INSTITUTION SHALL RECORD A FULL AND ACCURATE
25 DESCRIPTION, INCLUDING PHOTOGRAPHS, OF EACH INMATE TRANSFERRED TO THE
26 INSTITUTION FOR TREATMENT.

27 (2) THE INSTITUTION MAY ADOPT THE BERTILLON METHOD OR ANY
28 OTHER ACCURATE METHOD OF DESCRIPTION, MEASUREMENT, AND REGISTRATION.

29 (D) COOPERATION BY INDIVIDUALS AND AGENCIES.

30 (1) IN ORDER THAT THE INSTITUTION MAY COMPLY WITH THIS
31 SECTION, ALL STATE AND LOCAL OFFICIALS AND UNITS:

32 (I) SHALL COOPERATE WITH THE INSTITUTION; AND

1 (II) PROMPTLY, ON REQUEST OF THE INSTITUTION, SHALL
2 FURNISH OR CAUSE TO BE FURNISHED TO THE INSTITUTION THE INFORMATION,
3 RECORDS, AND REPORTS IN THEIR POSSESSION.

4 (2) THE PROVISIONS OF § 3-828(B) OF THE COURTS ARTICLE DO NOT
5 APPLY TO A REQUEST MADE FOR JUVENILE RECORDS UNDER THIS SECTION.

6 (E) CONFIDENTIALITY -- IN GENERAL.

7 TO THE EXTENT THAT ANY RECORD, REPORT, OR INFORMATION COMPILED
8 UNDER THIS SECTION IS LEGALLY CONFIDENTIAL, IT SHALL REMAIN CONFIDENTIAL
9 AND MAY NOT BE DISCLOSED TO ANY PERSON OR UNIT EXCEPT TO:

10 (1) THE COMMISSIONER OR THE COMMISSIONER'S AUTHORIZED STAFF;

11 (2) THE DIVISION OF PAROLE AND PROBATION;

12 (3) THE MARYLAND PAROLE COMMISSION;

13 (4) A STATE'S ATTORNEY, WHEN REQUIRED IN THE PROSECUTION OR
14 DEFENSE OF A PROCEEDING IN COURT;

15 (5) A FEDERAL, STATE, OR LOCAL LAW ENFORCEMENT OFFICER ON A
16 WRITTEN REQUEST SIGNED BY AN AUTHORIZED COMMANDING OFFICER OF THE
17 LAW ENFORCEMENT UNIT CERTIFYING THAT THE RECORD, REPORT, OR
18 INFORMATION IS NEEDED FOR A PENDING INVESTIGATION;

19 (6) AN AUTHORIZED CORRECTIONAL OFFICIAL OR PROBATION OFFICER
20 OF:

21 (I) THE UNITED STATES; OR

22 (II) A STATE, IF THAT JURISDICTION HAS MADE RECIPROCAL
23 PROVISION BY LAW TO FURNISH SIMILAR RECORDS, REPORTS, OR INFORMATION TO
24 COMPARABLE OFFICIALS OF THIS STATE;

25 (7) THE ATTORNEY GENERAL;

26 (8) THE INMATE GRIEVANCE OFFICE, TO THE EXTENT RELEVANT TO A
27 MATTER PENDING BEFORE IT AND WITH THE WRITTEN CONSENT OF THE INMATE TO
28 WHOM THE RECORD, REPORT, OR INFORMATION PERTAINS;

29 (9) THE DIVISION OF REHABILITATION SERVICES OF THE DEPARTMENT
30 OF EDUCATION SOLELY TO DETERMINE IF AN INMATE CONFINED AT THE
31 INSTITUTION QUALIFIES FOR BENEFITS PROVIDED BY THAT DIVISION;

32 (10) PROVIDERS OF MEDICAL CARE TO THE EXTENT NECESSARY TO
33 ENSURE PROPER MEDICAL TREATMENT;

1 (11) A JUDGE OF A CIRCUIT COURT OR THE DISTRICT COURT WHEN
2 REQUIRED IN CONNECTION WITH A PRETRIAL RELEASE, PRESENTENCE, OR
3 POSTSENTENCE INVESTIGATION; AND

4 (12) STATE, LOCAL, AND FEDERAL UNITS AND PRIVATE AGENCIES TO THE
5 EXTENT THAT THE RELEASE OF THE RECORD, REPORT, OR INFORMATION WILL
6 BENEFIT AN ELIGIBLE PERSON BUT ONLY WITH THE WRITTEN CONSENT OF THE
7 INMATE TO WHOM THE RECORD, REPORT, OR INFORMATION PERTAINS.

8 (F) SAME -- DISCLOSURE.

9 CONFIDENTIAL RECORDS, REPORTS, OR INFORMATION MAY BE DISCLOSED
10 UNDER SUBSECTION (E) OF THIS SECTION ONLY IF THE DIRECTOR REASONABLY
11 BELIEVES THAT THE RECORD, REPORT, OR INFORMATION:

12 (1) WILL BE USED SOLELY FOR THE LEGITIMATE PURPOSES OF THE
13 PERSON OR UNIT RECEIVING IT; AND

14 (2) WILL NOT BE FURTHER DISSEMINATED TO ANY PERSON OR UNIT
15 NOT AUTHORIZED TO RECEIVE IT UNDER SUBSECTION (E) OF THIS SECTION.

16 (G) SAME -- JUVENILE RECORDS.

17 JUVENILE RECORDS OBTAINED UNDER SUBSECTION (D) OF THIS SECTION MAY
18 BE DISCLOSED ONLY:

19 (1) TO A PERSON OR UNIT LISTED IN SUBSECTION (E)(1), (2), AND (3) OF
20 THIS SECTION; AND

21 (2) IN ACCORDANCE WITH SUBSECTION (F) OF THIS SECTION.

22 REVISOR'S NOTE: This section is new language derived without substantive
23 change from former Art. 31B, § 13.

24 In subsection (a) of this section, the former reference to a complete
25 "history" is deleted as implicit in the reference to a "complete record" and
26 as unnecessary in light of the specific references to the inmate's "criminal",
27 "juvenile", "medical", "social", "physical", and "mental" history in
28 subsection (b) of this section.

29 In subsection (b)(2) and (5) of this section, the former reference to "prior"
30 history is deleted as redundant.

31 In subsection (b)(3) of this section, the former reference to reports "that
32 have been prepared" concerning the inmate is deleted as implicit in the
33 reference to reports "concerning the inmate".

34 In subsection (c)(2) of this section, the reference to the Bertillon "method"
35 is added to state expressly that which was formerly only implied in the
36 reference to "Bertillon".

1 In subsections (d)(1), (e)(5) and (12), (f)(1) and (2), and the introductory
2 language of (e) of this section, the references to "unit" and "units" are
3 substituted for the former references to "agency" and "agencies",
4 respectively, for consistency throughout this article. See General Revisor's
5 Note to this article.

6 In subsection (d)(1)(ii) of this section, the reference to a request "of the
7 Institution" is added to state expressly that which was formerly only
8 implied in the law, i.e., the Patuxent Institution is responsible for making
9 the request for information.

10 In subsections (e)(5), (6)(ii), (8), and (12) and (f) of this section, the
11 references to the "record[s], report[s], or" information are added to state
12 expressly that which was formerly only implied in the references to
13 "information" and for consistency with the introductory language of
14 subsection (e) of this section.

15 In subsection (e)(6) of this section, the former reference to a "district, or
16 territory of the United States" is deleted as unnecessary in light of the
17 definition of "state" in § 1-101 of this article.

18 The Correctional Services Article Review Committee notes, for
19 consideration by the General Assembly, that subsection (e)(6) of this
20 section allows the Patuxent Institution to disclose an inmate's record to a
21 state or federal correctional official or probation officer. The General
22 Assembly may wish to expand the scope of this provision to allow the same
23 type of disclosure to a local correctional official or probation officer. This
24 change would be consistent with subsection (e)(5) of this section, which
25 allows the Patuxent Institution to disclose an inmate's record to a local law
26 enforcement officer under certain circumstances.

27 In subsection (e)(7) of this section, the former reference to the Attorney
28 General "of Maryland" is deleted as implicit in the reference to "the
29 Attorney General".

30 In subsection (e)(8) of this section, the reference to the Inmate Grievance
31 "Office" is substituted for the former obsolete reference to the Inmate
32 Grievance "Commission". See Ch. 251, Acts of 1991.

33 In subsection (e)(9) of this section, the reference to the Division of
34 "Rehabilitation Services" is substituted for the former obsolete reference to
35 the Division of "Vocational Rehabilitation". See Ch. 42, Acts of 1992.

36 In subsection (e)(10) of this section, the former reference to disclosing
37 medical records "when [they] are required" is deleted as implicit in the
38 reference to disclosing medical records "to the extent necessary to ensure
39 proper medical treatment".

40 In the introductory language of subsection (f) of this section, the term
41 "believes" is substituted for the former phrase "assured and convinced" for

1 brevity.

2 Former Art. 31B, § 13(e)(2), which required that the information "not be
3 used for any improper or unauthorized purpose", is deleted as unnecessary
4 in light of the requirement in subsection (f)(1) of this section that the
5 information be used "solely for ... legitimate purposes".

6 Defined terms: "Commissioner" § 4-101

7 "Director" § 4-101

8 "Division of Parole and Probation" § 1-101

9 "Eligible person" § 4-101

10 "Inmate" § 1-101

11 "Institution" § 4-101

12 "Person" § 1-101

13 "State" § 1-101

14 4-210. MEDICAL TREATMENT OF JUVENILE INMATES.

15 (A) AUTHORIZATION.

16 ON THE RECOMMENDATION OF A HEALTH CARE PROVIDER, THE DIRECTOR OR
17 DIRECTOR'S DESIGNEE MAY AUTHORIZE MEDICAL TREATMENT OF A JUVENILE
18 INMATE WHEN:

19 (1) IN THE JUDGMENT OF THE DIRECTOR OR DESIGNEE, THE
20 TREATMENT IS NECESSARY; AND

21 (2) A PARENT, GUARDIAN, OR PERSON IN LOCO PARENTIS OF THE
22 JUVENILE IS NOT AVAILABLE ON A TIMELY BASIS TO GIVE THE AUTHORIZATION.

23 (B) IMMUNITY.

24 THE DIRECTOR OR DIRECTOR'S DESIGNEE MAY NOT BE HELD LIABLE FOR
25 AUTHORIZING IN GOOD FAITH MEDICALLY NECESSARY TREATMENT UNDER
26 SUBSECTION (A) OF THIS SECTION.

27 REVISOR'S NOTE: This section is new language derived without substantive
28 change from former Art. 31B, § 9A.

29 The Correctional Services Article Review Committee notes, for
30 consideration by the General Assembly, that the meaning of subsection (b)
31 of this section is unclear in light of SG § 12-105 and CJ § 5-522(b), which
32 grant immunity from liability to State personnel. Under SG § 12-105 and
33 CJ § 5-522(b), State personnel are immune from suit in State courts and
34 from liability in tort for a tortious act or omission that is within the scope
35 of the public duties of the State personnel and is made without malice or
36 gross negligence. The Committee is uncertain as to whether subsection (b)
37 of this section establishes any additional protection against liability for the
38 Director or the Director's designee. The General Assembly may wish to
39 examine this issue. See also § 5-406(b) of this article.

1 Defined terms: "Director" § 4-101

2 "Inmate" § 1-101

3 "Person" § 1-101

4 4-211. STATE USE INDUSTRIES.

5 THE DIRECTOR MAY DETERMINE WHETHER, TO WHAT EXTENT, AND WHICH
6 INMATES OF THE INSTITUTION SHALL SUPPLY PRODUCE AND OTHER GOODS
7 REQUIRED TO BE PURCHASED BY CONTRACTING UNITS OR POLITICAL SUBDIVISIONS
8 UNDER TITLE 3, SUBTITLE 5 OF THIS ARTICLE.

9 REVISOR'S NOTE: This section is new language derived without substantive
10 change from former Art. 31B, § 14.

11 The former phrase "from time to time" is deleted as unnecessary.

12 The reference to "inmates of" the Institution is substituted for the former
13 reference to "persons in the custody of" the Institution for consistency
14 throughout this article. See § 1-101 of this article for the definition of
15 "inmate".

16 The former reference to "wares ... [and] merchandise" is deleted as implicit
17 in the reference to "goods".

18 The reference to contracting "units" is substituted for the former reference
19 to contracting "agencies" for consistency throughout this article. See
20 General Revisor's Note to this article.

21 Defined terms: "Director" § 4-101

22 "Inmate" § 1-101

23 "Institution" § 4-101

24 4-212. GRANTS.

25 SUBJECT TO ANY APPROVAL REQUIRED BY LAW, THE DIRECTOR MAY APPLY FOR
26 AND RECEIVE FROM ANY UNIT OF GOVERNMENT A GRANT OR LOAN OF FUNDS OR
27 GOODS TO BE USED IN THE ESTABLISHMENT, MAINTENANCE, OR PROGRAMS OF THE
28 INSTITUTION.

29 REVISOR'S NOTE: This section is new language derived without substantive
30 change from former Art. 31B, § 15.

31 The reference to "any unit of government" is substituted for the former
32 reference to "the federal government or any board, bureau, commission,
33 department or other agency" for brevity and consistency throughout this
34 article. See General Revisor's Note to this article.

35 The reference to "programs" is substituted for the former reference to
36 "program" for consistency with § 4-202 of this subtitle.

1 The Correctional Services Article Review Committee notes, for
2 consideration by the General Assembly, that this section does not allow the
3 Director to seek grants or loans from private entities. The General
4 Assembly may wish to amend this section to allow the Director to seek
5 private grants and loans. The Correctional Services Article Review
6 Committee further notes, for consideration by the General Assembly, that
7 this section allows a grant or loan to be used "in the establishment" of the
8 Institution. Since the Institution is already established, the General
9 Assembly may wish to either clarify or delete this language.

10 Defined terms: "Director" § 4-101

11 "Institution" § 4-101

12 4-213. EDUCATIONAL PROGRAMS.

13 NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE INSTITUTION SHALL
14 BE CONSIDERED A CORRECTIONAL FACILITY WITHIN THE DIVISION OF CORRECTION
15 FOR THE PURPOSE OF FUNDING EDUCATIONAL PROGRAMS UNDER TITLE 22,
16 SUBTITLE 1 OF THE EDUCATION ARTICLE.

17 REVISOR'S NOTE: This section is new language derived without substantive
18 change from former Art. 31B, § 16.

19 The Correctional Services Article Review Committee notes, for
20 consideration by the General Assembly, that it may be better to place this
21 provision in ED § 22-104.

22 Defined terms: "Correctional facility" § 1-101

23 "Division of Correction" § 1-101

24 "Institution" § 4-101

25 SUBTITLE 3. REMEDIATION PROGRAMS.

26 4-301. REFERRAL FOR EVALUATION.

27 (A) COMMISSIONER'S AUTHORITY.

28 (1) THE COMMISSIONER MAY REFER AN INMATE TO THE INSTITUTION
29 FOR EVALUATION AS TO WHETHER THE INMATE IS AN ELIGIBLE PERSON IF THE
30 INMATE:

31 (I) IS SERVING A SENTENCE OF IMPRISONMENT FOLLOWING
32 CONVICTION OF A CRIME;

33 (II) HAS MORE THAN 3 YEARS REMAINING TO SERVE ON A
34 SENTENCE;

35 (III) HAS NOT BEEN EVALUATED BY OR CONFINED AT THE
36 INSTITUTION WITHIN THE PRECEDING 3 YEARS;

1 (IV) IS NOT DISQUALIFIED FROM BEING AN ELIGIBLE PERSON
2 UNDER § 4-101(E)(2) OF THIS TITLE; AND

3 (V) MEETS THE ELIGIBILITY CRITERIA THAT THE SECRETARY
4 ESTABLISHES UNDER § 4-208(B) OF THIS TITLE.

5 (2) THE COMMISSIONER MAY REFER AN INMATE TO THE INSTITUTION:

6 (I) ON RECOMMENDATION OF THE SENTENCING COURT; OR

7 (II) ON APPLICATION BY THE INMATE OR THE STATE'S ATTORNEY
8 OF THE COUNTY IN WHICH THE INMATE WAS LAST CONVICTED; OR

9 (III) ON THE COMMISSIONER'S OWN INITIATIVE.

10 (B) EXAMINATION.

11 (1) WITHIN 6 MONTHS AFTER AN INMATE IS REFERRED TO THE
12 INSTITUTION, AN EVALUATION TEAM SHALL EXAMINE THE INMATE.

13 (2) BEFORE PROCEEDING WITH THE EXAMINATION, THE EVALUATION
14 TEAM SHALL ASSEMBLE AND REVIEW ALL AVAILABLE AND RELEVANT INFORMATION
15 ABOUT THE INMATE PROVIDED FOR IN § 4-209 OF THIS TITLE.

16 (C) DETERMINATION BY EVALUATION TEAM.

17 (1) BASED ON THE INFORMATION REVIEWED UNDER SUBSECTION (B)(2)
18 OF THIS SECTION AND AN EXAMINATION OF THE INMATE, THE EVALUATION TEAM
19 SHALL DETERMINE WHETHER, IN THE OPINION OF A MAJORITY OF THE TEAM, THE
20 INMATE IS AN ELIGIBLE PERSON.

21 (2) THE EVALUATION TEAM SHALL SUBMIT TO THE DIRECTOR A
22 WRITTEN REPORT THAT STATES ITS FINDINGS.

23 (3) THE REPORT SHALL STATE IN DETAIL THE REASONING SUPPORTING
24 THE TEAM'S CONCLUSION WITH RESPECT TO EACH OF THE CRITERIA FOR AN
25 ELIGIBLE PERSON SET FORTH IN § 4-101(E) OF THIS TITLE.

26 REVISOR'S NOTE: This section is new language derived without substantive
27 change from former Art. 31B, § 8.

28 In subsection (c)(1) of this section, the former reference to the team's
29 "opinion" is deleted as unnecessary in light of the reference to the "opinion
30 of a majority of the team".

31 Defined terms: "Commissioner" § 4-101

32 "County" § 1-101

33 "Director" § 4-101

34 "Eligible person" § 4-101

35 "Evaluation team" § 4-101

36 "Inmate" § 1-101

1 "Institution" § 4-101

2 "Secretary" § 1-101

3 4-302. TRANSFER TO INSTITUTION.

4 (A) NOTICE OF INELIGIBILITY.

5 (1) IF THE EVALUATION TEAM DETERMINES UNDER § 4-301(C) OF THIS
6 SUBTITLE THAT AN INMATE IS NOT AN ELIGIBLE PERSON, THE DIRECTOR SHALL
7 NOTIFY THE COMMISSIONER AND SEND TO THE COMMISSIONER A COPY OF THE
8 EVALUATION TEAM'S REPORT.

9 (2) WITHIN 30 DAYS AFTER SENDING THE NOTICE, THE INMATE SHALL
10 BE DELIVERED TO THE APPROPRIATE CORRECTIONAL FACILITY THAT THE
11 COMMISSIONER DESIGNATES.

12 (B) NOTICE OF ELIGIBILITY.

13 IF THE EVALUATION TEAM DETERMINES UNDER § 4-301(C) OF THIS SUBTITLE
14 THAT THE INMATE IS AN ELIGIBLE PERSON, THE DIRECTOR SHALL NOTIFY THE
15 COMMISSIONER AND THE INMATE SHALL BE ADMITTED TO THE ELIGIBLE PERSON
16 REMEDIATION PROGRAM IF THE ADMISSION DOES NOT EXCEED THE PROGRAM
17 CAPACITY SPECIFIED IN § 4-202(C) OF THIS TITLE.

18 (C) TREATMENT PLAN.

19 (1) THE EVALUATION TEAM SHALL PREPARE, FILE WITH THE DIRECTOR,
20 AND IMPLEMENT AN INDIVIDUALIZED WRITTEN REMEDIATION PLAN FOR EACH
21 ELIGIBLE PERSON.

22 (2) THE DIRECTOR OR AN ASSOCIATE DIRECTOR FOR TREATMENT
23 SHALL REVIEW THE REMEDIATION PLAN AND THE ELIGIBLE PERSON'S PROGRESS
24 UNDER IT AT APPROPRIATE INTERVALS NOT EXCEEDING EVERY 6 MONTHS.

25 (D) REVIEW AND RECOMMENDATIONS BY BOARD OF REVIEW.

26 (1) AT LEAST ONCE A YEAR, FOLLOWING A NEW EVALUATION BY AN
27 EVALUATION TEAM, THE BOARD OF REVIEW SHALL REVIEW AN INMATE'S STATUS AS
28 AN ELIGIBLE PERSON AND THE INMATE'S PROGRESS UNDER THE REMEDIATION
29 PLAN.

30 (2) AFTER ITS REVIEW, THE BOARD OF REVIEW SHALL MAKE
31 APPROPRIATE WRITTEN RECOMMENDATIONS FOR THE FUTURE REMEDIATION AND
32 STATUS OF THE ELIGIBLE PERSON.

33 (3) THE INSTITUTION SHALL MAINTAIN A COPY OF THESE
34 RECOMMENDATIONS AS PART OF THE INMATE'S FILE.

35 (E) CUSTODY AND CONTROL.

1 AN INMATE TRANSFERRED TO THE INSTITUTION FOR EVALUATION OR
2 TREATMENT REMAINS IN THE CUSTODY OF THE DIVISION OF CORRECTION AND
3 UNDER THE SENTENCE IMPOSED ON THE INMATE, BUT THE INMATE IS SUBJECT TO
4 THE IMMEDIATE CONTROL OF THE INSTITUTION AND ITS STAFF.

5 REVISOR'S NOTE: This section is new language derived without substantive
6 change from former Art. 31B, § 9.

7 In subsections (a)(1) and (b) of this section, the references to the evaluation
8 team "determin[ing] under § 4-301(c) of this subtitle" whether an inmate
9 is an "eligible person" are substituted for the former references to the
10 evaluation team "conclud[ing]" that an inmate is an "eligible person" for
11 consistency with § 4-301(c) of this subtitle.

12 In subsection (b) of this section, the reference to the "eligible person
13 remediation" program is added to state expressly that which was formerly
14 only implied in the reference to "program".

15 In subsection (c)(1) of this section, the reference to "[t]he evaluation team"
16 is added to state expressly that which was only implied in the former law,
17 i.e., the evaluation team is responsible for preparing, filing, and
18 implementing the written remediation plan.

19 In subsection (d)(3) of this section, the reference to "[t]he Institution" is
20 added to state expressly that which was only implied in the former law,
21 i.e., the Patuxent Institution is responsible for maintaining the
22 individual's file.

23 Defined terms: "Board of Review" § 4-101

24 "Commissioner" § 4-101

25 "Correctional facility" § 1-101

26 "Director" § 4-101

27 "Division of Correction" § 1-101

28 "Eligible person" § 4-101

29 "Evaluation team" § 4-101

30 "Inmate" § 1-101

31 "Institution" § 4-101

32 "Remediation" § 4-101

33 4-303. WORK RELEASE AND LEAVE OF ABSENCE.

34 (A) ELIGIBILITY.

35 (1) SUBJECT TO § 4-305 OF THIS TITLE, INMATES TRANSFERRED TO THE
36 INSTITUTION FOR TREATMENT ARE ELIGIBLE FOR THE WORK RELEASE AND LEAVE
37 OF ABSENCE PROGRAMS PROVIDED FOR IN §§ 3-801 THROUGH 3-806 AND 3-808
38 THROUGH 3-811 OF THIS ARTICLE.

39 (2) THE BOARD OF REVIEW SHALL PERFORM THE FUNCTIONS OF THE
40 WARDEN AND THE COMMISSIONER UNDER §§ 3-801 THROUGH 3-806 AND 3-808

1 THROUGH 3-811 OF THIS ARTICLE WITH RESPECT TO INMATES CONFINED IN THE
2 INSTITUTION.

3 (B) BOARD OF REVIEW.

4 (1) THE BOARD OF REVIEW MAY NOT GRANT AN ELIGIBLE PERSON
5 WORK RELEASE OR LEAVE UNDER THIS SECTION UNTIL THE BOARD OF REVIEW
6 MAELS WRITTEN NOTICE TO THE VICTIM THAT THE BOARD OF REVIEW INTENDS TO
7 DECIDE WHETHER TO GRANT WORK RELEASE OR LEAVE TO THE ELIGIBLE PERSON.

8 (2) BEFORE THE BOARD OF REVIEW DECIDES WHETHER TO GRANT
9 WORK RELEASE OR LEAVE TO AN ELIGIBLE PERSON, THE BOARD OF REVIEW SHALL
10 GIVE THE VICTIM A REASONABLE OPPORTUNITY TO COMMENT IN WRITING ON WORK
11 RELEASE OR LEAVE OR TO PRESENT ORAL TESTIMONY IN THE MANNER THAT THE
12 BOARD OF REVIEW ESTABLISHES BY REGULATION.

13 (3) THE BOARD OF REVIEW PROMPTLY SHALL NOTIFY THE VICTIM OF
14 THE DECISION OF THE BOARD OF REVIEW REGARDING WORK RELEASE OR LEAVE.

15 (4) THE VICTIM MAY DESIGNATE, IN WRITING TO THE BOARD OF
16 REVIEW, THE NAME AND ADDRESS OF A REPRESENTATIVE WHO IS A RESIDENT OF
17 THE STATE TO RECEIVE NOTICE FOR THE VICTIM.

18 (5) THE BOARD OF REVIEW SHALL DELETE THE VICTIM'S ADDRESS AND
19 PHONE NUMBER FROM A DOCUMENT BEFORE THE BOARD OF REVIEW ALLOWS
20 EXAMINATION OF THE DOCUMENT BY THE ELIGIBLE PERSON OR THE ELIGIBLE
21 PERSON'S REPRESENTATIVE.

22 REVISOR'S NOTE: This section formerly was Art. 31B, § 10.

23 In subsection (b)(2) of this section, the former reference to leave "status" is
24 deleted for consistency with subsection (b)(1) and (3) of this section.

25 The only other changes are in style.

26 Defined terms: "Board of Review" § 4-101

27 "Commissioner" § 4-101

28 "Eligible person" § 4-101

29 "Inmate" § 1-101

30 "Institution" § 4-101

31 "Victim" § 4-101

32 4-304. REQUIRED RELEASE.

33 (A) IN GENERAL.

34 AN INMATE CONFINED AT THE INSTITUTION SHALL BE RELEASED ON
35 EXPIRATION OF SENTENCE OR UNDER MANDATORY SUPERVISION, AS DEFINED IN §
36 7-101 OF THIS ARTICLE, IN THE SAME MANNER AND SUBJECT TO THE SAME

1 CONDITIONS AS IF THE INMATE WERE BEING RELEASED FROM A CORRECTIONAL
2 FACILITY IN THE DIVISION OF CORRECTION.

3 (B) NOTIFICATION.

4 THE DIRECTOR SHALL NOTIFY THE COMMISSIONER 30 DAYS BEFORE EACH
5 RELEASE.

6 REVISOR'S NOTE: This section is new language derived without substantive
7 change from former Art. 31B, § 11(a).

8 In subsection (a) of this section, the reference to release on expiration of
9 sentence or "under mandatory supervision, as defined in § 7-101 of this
10 article," is added for consistency with § 4-308 of this subtitle, which
11 provides that an inmate of the Patuxent Institution shall receive full credit
12 against a sentence for diminution credits awarded under Title 3, Subtitle 7
13 of this article.

14 Defined terms: "Commissioner" § 4-101

15 "Correctional facility" § 1-101

16 "Director" § 4-101

17 "Division of Correction" § 1-101

18 "Inmate" § 1-101

19 "Institution" § 4-101

20 4-305. PAROLE.

21 (A) IN GENERAL.

22 AFTER TRANSFER OF AN INMATE TO THE INSTITUTION FOR TREATMENT AS AN
23 ELIGIBLE PERSON BUT BEFORE EXPIRATION OF THE INMATE'S SENTENCE, THE
24 BOARD OF REVIEW MAY GRANT A PAROLE FROM THE INSTITUTION FOR A PERIOD
25 NOT EXCEEDING 1 YEAR IF THE BOARD OF REVIEW CONCLUDES THAT THE PAROLE:

26 (1) WILL NOT IMPOSE AN UNREASONABLE RISK ON SOCIETY; AND

27 (2) WILL ASSIST IN THE REMEDIATION OF THE ELIGIBLE PERSON.

28 (B) LIFE IMPRISONMENT.

29 (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, AN
30 INMATE SENTENCED TO LIFE IMPRISONMENT IS NOT ELIGIBLE FOR PAROLE
31 CONSIDERATION UNTIL THE INMATE HAS SERVED 15 YEARS OR THE EQUIVALENT OF
32 15 YEARS WHEN CONSIDERING ALLOWANCES FOR DIMINUTION OF THE INMATE'S
33 PERIOD OF CONFINEMENT AS PROVIDED UNDER TITLE 3, SUBTITLE 7 OF THIS
34 ARTICLE AND ARTICLE 27, § 638C OF THE CODE.

35 (2) AN INMATE SENTENCED TO LIFE IMPRISONMENT AS A RESULT OF A
36 PROCEEDING UNDER ARTICLE 27, § 413 IS NOT ELIGIBLE FOR PAROLE
37 CONSIDERATION UNTIL THE INMATE HAS SERVED 25 YEARS OR THE EQUIVALENT OF

1 25 YEARS WHEN CONSIDERING ALLOWANCES FOR DIMINUTION OF THE INMATE'S
2 PERIOD OF CONFINEMENT AS PROVIDED UNDER TITLE 3, SUBTITLE 7 OF THIS
3 ARTICLE AND ARTICLE 27, § 638C OF THE CODE.

4 (3) AN ELIGIBLE PERSON WHO IS SERVING A TERM OF LIFE
5 IMPRISONMENT MAY BE PAROLED ONLY WITH THE GOVERNOR'S APPROVAL.

6 (C) CONDITIONS.

7 (1) THE BOARD OF REVIEW MAY:

8 (I) ATTACH REASONABLE CONDITIONS TO PAROLE GRANTED
9 UNDER THIS SECTION;

10 (II) MAKE REASONABLE AND APPROPRIATE MODIFICATIONS OF
11 THE CONDITIONS AT ANY TIME; AND

12 (III) REVOKE THE PAROLE IF THE BOARD OF REVIEW FINDS THAT
13 THE INDIVIDUAL HAS VIOLATED A CONDITION OF THE PAROLE.

14 (2) THE BOARD OF REVIEW:

15 (I) SHALL REVIEW AN INDIVIDUAL'S STATUS BEFORE THE
16 EXPIRATION OF THE PAROLE PERIOD; AND

17 (II) MAY EXTEND THE PAROLE.

18 (D) NOTICE TO AND COMMENT BY VICTIM.

19 (1) THE BOARD OF REVIEW SHALL MAIL TO THE VICTIM WRITTEN
20 NOTICE OF AN ELIGIBLE PERSON'S PAROLE HEARING.

21 (2) BEFORE THE BOARD DECIDES WHETHER TO GRANT PAROLE TO AN
22 ELIGIBLE PERSON, THE BOARD OF REVIEW SHALL GIVE THE VICTIM A REASONABLE
23 OPPORTUNITY TO COMMENT ON THE PAROLE IN WRITING OR TO PRESENT ORAL
24 TESTIMONY IN THE MANNER THAT THE BOARD OF REVIEW ESTABLISHES BY
25 REGULATION.

26 (3) THE BOARD OF REVIEW PROMPTLY SHALL NOTIFY THE VICTIM OF
27 THE DECISION OF THE BOARD OF REVIEW REGARDING PAROLE.

28 (4) THE VICTIM MAY DESIGNATE, IN WRITING TO THE BOARD OF
29 REVIEW, THE NAME AND ADDRESS OF A REPRESENTATIVE WHO IS A RESIDENT OF
30 THE STATE TO RECEIVE NOTICE FOR THE VICTIM.

31 (5) THE BOARD OF REVIEW SHALL DELETE THE VICTIM'S ADDRESS AND
32 PHONE NUMBER FROM A DOCUMENT BEFORE THE BOARD OF REVIEW ALLOWS
33 EXAMINATION OF THE DOCUMENT BY THE ELIGIBLE PERSON OR THE ELIGIBLE
34 PERSON'S REPRESENTATIVE.

35 (E) APPROVAL BY SECRETARY.

1 THE BOARD OF REVIEW MAY NOT RELEASE AN ELIGIBLE PERSON ON PAROLE
2 UNTIL THE SECRETARY APPROVES THE PAROLE DECISION.

3 (F) REMAINING SENTENCE.

4 (1) IF AN INDIVIDUAL HAS COMPLETED SUCCESSFULLY 3 YEARS ON
5 PAROLE WITHOUT VIOLATION AND THE BOARD OF REVIEW CONCLUDES THAT THE
6 INDIVIDUAL IS SAFE TO BE PERMANENTLY RELEASED, THE BOARD OF REVIEW,
7 THROUGH THE DIRECTOR, MAY PETITION THE COURT THAT LAST SENTENCED THE
8 INDIVIDUAL TO:

9 (I) SUSPEND THE INDIVIDUAL'S REMAINING SENTENCE AND
10 TERMINATE PAROLE SUPERVISION ON THE CONDITIONS THE COURT CONSIDERS
11 APPROPRIATE; OR

12 (II) VACATE THE INDIVIDUAL'S REMAINING SENTENCE.

13 (2) (I) THE DIRECTOR SHALL SERVE NOTICE OF THE PETITION ON
14 THE VICTIM AND THE STATE'S ATTORNEY WHO LAST PROSECUTED THE INDIVIDUAL.

15 (II) THE STATE'S ATTORNEY SHALL BE A PARTY TO THE
16 PROCEEDING.

17 (3) AFTER A HEARING, THE COURT MAY EITHER GRANT OR DENY THE
18 RELIEF REQUESTED IN THE PETITION.

19 REVISOR'S NOTE: This section is new language derived without substantive
20 change from former Art. 31B, § 11(b)(2) through (6) and (c) through (e).

21 In subsections (c)(1)(iii) and (2)(i), and (f)(1) and (2)(i) of this section, the
22 references to "individual" and "individual's", respectively, are substituted
23 for the former references to "person" and "person's", respectively, because
24 only a human being, and not the other entities included in the defined
25 term "person", can be paroled. See § 1-101 of this article for the definition
26 of "person".

27 The Correctional Services Article Review Committee notes, for
28 consideration by the General Assembly, that the requirement in subsection
29 (d)(2) of this section that the Board of Review establish regulations
30 governing the manner in which a victim shall present oral testimony at a
31 parole hearing is inconsistent with § 4-208 of this title, which requires the
32 Secretary to adopt regulations to carry out this title, including regulations
33 that govern parole from the Patuxent Institution. The General Assembly
34 may wish to clarify whether the Secretary or the Board of Review has
35 responsibility for adopting regulations governing the manner in which a
36 victim shall present oral testimony at a parole hearing.

37 In subsection (f)(2) of this section, the reference to the "Director" is added
38 to state expressly that which was only implied in the former law, i.e., the
39 Director is responsible for serving notice of the petition.

1 Defined terms: "Board of Review" § 4-101

2 "Director" § 4-101

3 "Eligible person" § 4-101

4 "Inmate" § 1-101

5 "Institution" § 4-101

6 "Secretary" § 1-101

7 "Victim" § 4-101

8 4-306. TRANSFERS BY BOARD OF REVIEW.

9 (A) IN GENERAL.

10 AFTER TRANSFER OF AN INMATE TO THE INSTITUTION FOR TREATMENT AS AN
11 ELIGIBLE PERSON BUT BEFORE THE INMATE'S SENTENCE EXPIRES, ON REVIEW OF
12 THE INMATE, THE BOARD OF REVIEW MAY TAKE ANY OF THE ACTIONS SPECIFIED IN
13 SUBSECTION (B) OF THIS SECTION.

14 (B) OPTIONAL RETURN TO DIVISION OF CORRECTION.

15 (1) IF AN INMATE SUBMITS A WRITTEN REQUEST FOR A TRANSFER TO
16 THE DIVISION OF CORRECTION, THE DIRECTOR SHALL NOTIFY THE COMMISSIONER
17 AND SEND THE COMMISSIONER A COPY OF ANY EVALUATION TEAM'S REPORT THAT
18 HAS BEEN COMPLETED.

19 (2) IF THE BOARD OF REVIEW CONCLUDES THAT AN INMATE IS NO
20 LONGER AN ELIGIBLE PERSON BUT SHOULD REMAIN CONFINED IN THE DIVISION OF
21 CORRECTION SUBJECT TO THE AUTHORITY OF THE MARYLAND PAROLE
22 COMMISSION UNTIL RELEASE ON EXPIRATION OF SENTENCE, THE DIRECTOR SHALL
23 NOTIFY THE COMMISSIONER AND SEND THE COMMISSIONER A COPY OF THE
24 EVALUATION TEAM'S REPORT.

25 (3) WITHIN 90 DAYS AFTER NOTICE IS PROVIDED UNDER PARAGRAPH (1)
26 OR (2) OF THIS SUBSECTION, THE INMATE SHALL BE DELIVERED TO THE
27 APPROPRIATE CORRECTIONAL FACILITY THAT THE COMMISSIONER DESIGNATES.

28 (4) A TRANSFER UNDER THIS SUBSECTION DOES NOT AFFECT ANY
29 RIGHT TO PAROLE CONSIDERATION THAT THE INMATE MAY HAVE AT THE TIME OF
30 TRANSFER.

31 (C) RETURN TO DIVISION OF CORRECTION FOR MAJOR VIOLATION.

32 (1) IN THIS SUBSECTION, "MAJOR VIOLATION" INCLUDES:

33 (I) ESCAPE FROM PAROLE, WORK RELEASE, OR LEAVE;

34 (II) FAILURE TO RETURN FROM PAROLE, WORK RELEASE, OR
35 LEAVE WITHIN 1 HOUR OF THE TIME DUE, UNLESS THE FAILURE TO RETURN WAS
36 DUE TO CAUSES BEYOND THE CONTROL OF THE ELIGIBLE PERSON;

1 (III) COMMISSION OF A NEW CRIME, OTHER THAN A MINOR TRAFFIC
2 VIOLATION, WHILE ON PAROLE, WORK RELEASE, OR LEAVE;

3 (IV) COMMISSION OF A MAJOR VIOLATION OF THE INSTITUTION'S
4 DISCIPLINARY RULES;

5 (V) VIOLATION OF ANY PAROLE, WORK RELEASE, OR LEAVE RULE
6 NOT CATEGORIZED AS A MINOR VIOLATION UNDER THE REGULATIONS OF THE
7 INSTITUTION; AND

8 (VI) USE OF A CONTROLLED DANGEROUS SUBSTANCE THAT THE
9 ELIGIBLE PERSON IS NOT ENTITLED TO USE UNDER THE LAWS OF THE STATE.

10 (2) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, IF AN
11 ELIGIBLE PERSON COMMITS A MAJOR VIOLATION WHILE ON PAROLE, WORK
12 RELEASE, OR LEAVE, THE ELIGIBLE PERSON SHALL BE CONFINED TO THE
13 INSTITUTION AND SHALL BE INELIGIBLE FOR PAROLE, WORK RELEASE, OR LEAVE
14 FOR AT LEAST 6 MONTHS.

15 (3) IF THE BOARD OF REVIEW OR THE SECRETARY DETERMINES THAT A
16 MAJOR VIOLATION WAS SEVERE ENOUGH TO WARRANT REMOVING AN ELIGIBLE
17 PERSON FROM THE INSTITUTION, THE ELIGIBLE PERSON MAY BE REMOVED FROM
18 THE INSTITUTION AND RETURNED TO THE DIVISION OF CORRECTION TO SERVE THE
19 REMAINDER OF THE ELIGIBLE PERSON'S ORIGINAL SENTENCE.

20 (4) IF AN ELIGIBLE PERSON COMMITS A SECOND MAJOR VIOLATION
21 WHILE ON PAROLE, WORK RELEASE, OR LEAVE, THE ELIGIBLE PERSON SHALL BE
22 REMOVED FROM THE INSTITUTION AND RETURNED TO THE DIVISION OF
23 CORRECTION TO SERVE THE REMAINDER OF THE ELIGIBLE PERSON'S ORIGINAL
24 SENTENCE.

25 REVISOR'S NOTE: This section is new language derived without substantive
26 change from former Art. 31B, §§ 11A and 11(b)(1).

27 In subsection (b)(1) of this section, the reference to a copy of any evaluation
28 team's report "that has been completed" is added for consistency with §
29 4-301(b) of this subtitle. In the case of an inmate who requests a transfer
30 to the Division of Correction, a report by an evaluation team may or may
31 not exist.

32 In subsection (b)(2) of this section, the reference to an inmate remaining
33 confined "in the Division of Correction subject to the authority of the
34 Maryland Parole Commission until release on expiration of sentence" is
35 substituted for the former reference to an inmate confined "until released
36 on parole in accordance with normal Parole Commission standards or
37 expiration of sentence" for clarity. No substantive change is intended.

38 The Correctional Services Article Review Committee notes, for
39 consideration by the General Assembly, that subsection (b)(2) of this
40 section refers to release "on expiration of sentence". The Committee

1 believes that, because of the applicability of diminution credits under §
2 4-308 of this title, it would be more appropriate to refer to release "on
3 expiration of sentence or under mandatory supervision, as defined in §
4 7-101 of this article". See, e.g., § 4-304(a) of this subtitle.

5 In subsection (b)(4) of this section, the reference to any right to parole
6 consideration that the inmate may "have at the time of transfer" is added
7 to state expressly that which was only implied in the former reference to
8 any right to parole consideration that the inmate may "then have".

9 In subsection (c)(1)(iii) of this section, the reference to a "crime" is
10 substituted for the former reference to an "offense" for consistency
11 throughout this article. See General Revisor's Note to this article.

12 In subsection (c)(1)(vi) of this section, the defined term "eligible person" is
13 substituted for the former reference to an "inmate" for consistency within
14 this subsection.

15 In subsection (c)(2) of this section, the former reference to "a period of" 6
16 months is deleted as implicit in the reference to "6 months".

17 Defined terms: "Board of Review" § 4-101

18 "Commissioner" § 4-101

19 "Correctional facility" § 1-101

20 "Director" § 4-101

21 "Division of Correction" § 1-101

22 "Eligible person" § 4-101

23 "Inmate" § 1-101

24 "Institution" § 4-101

25 "Secretary" § 1-101

26 4-307. RESTITUTION.

27 IF A COURT HAS ORDERED THAT AN ELIGIBLE PERSON MAKE RESTITUTION AS
28 PART OF A SENTENCE OR AS A CONDITION OF PROBATION, THE BOARD OF REVIEW
29 SHALL REQUIRE THE ELIGIBLE PERSON TO MAKE RESTITUTION PAYMENTS WHILE
30 ON PAROLE OR WORK RELEASE AS A CONDITION OF PAROLE OR WORK RELEASE.

31 REVISOR'S NOTE: This section is new language derived without substantive
32 change from former Art. 31B, § 11B.

33 The former requirement that an eligible person make restitution payments
34 as a condition of parole or work release "[i]f parole or work release has
35 been granted by the board of review" is deleted as implicit in the reference
36 to making restitution payments "as a condition of parole or work release".

37 Defined terms: "Board of Review" § 4-101

38 "Eligible person" § 4-101

1 4-308. DIMINUTION CREDITS.

2 AN INMATE WHO IS TRANSFERRED TO THE INSTITUTION FOR EVALUATION OR
3 TREATMENT SHALL RECEIVE FULL CREDIT AGAINST A SENTENCE FOR THE TIME
4 SPENT AT THE INSTITUTION, INCLUDING ALLOWANCES OR DISALLOWANCES FOR
5 DIMINUTION OF THE INMATE'S TERM OF CONFINEMENT UNDER TITLE 3, SUBTITLE 7
6 OF THIS ARTICLE AS THE DIRECTOR DETERMINES.

7 REVISOR'S NOTE: This section is new language derived without substantive
8 change from former Art. 31B, § 12.

9 The reference to allowances or disallowances "for diminution of the
10 individual's term of confinement" is added to state expressly that which
11 was formerly only implied in the reference to "allowances or
12 disallowances".

13 Defined terms: "Director" § 4-101

14 "Inmate" § 1-101

15 "Institution" § 4-101

16 SUBTITLE 4. YOUTH PROGRAM.

17 4-401. IN GENERAL.

18 (A) YOUTH PROGRAM DEFINED.

19 IN THIS SECTION, "YOUTH PROGRAM" MEANS THE PATUXENT INSTITUTION
20 YOUTH PROGRAM.

21 (B) ESTABLISHED.

22 THERE IS A PATUXENT INSTITUTION YOUTH PROGRAM.

23 (C) ELIGIBILITY.

24 THIS SECTION APPLIES TO AN INDIVIDUAL UNDER THE AGE OF 21 YEARS WHO
25 IS SENTENCED TO A TERM OF IMPRISONMENT OF 3 YEARS OR MORE.

26 (D) TIME OF REFERRAL.

27 AT SENTENCING, A COURT MAY REFER AN INDIVIDUAL TO THE INSTITUTION
28 FOR EVALUATION.

29 (E) DIRECTOR'S DUTIES.

30 THE DIRECTOR SHALL:

31 (1) REVIEW RECOMMENDATIONS OF A COURT FOR ADMISSION OF AN
32 INDIVIDUAL TO THE YOUTH PROGRAM; AND

1 (2) ADMIT OR DENY ADMISSION OF AN INDIVIDUAL BASED ON THE
2 CRITERIA FOR ADMISSION ESTABLISHED UNDER SUBSECTION (I) OF THIS SECTION.

3 (F) TERMINATION.

4 IF AN INDIVIDUAL IS TRANSFERRED TO THE YOUTH PROGRAM UNDER THIS
5 SECTION, THE DURATION OF THE TRANSFER TO THE INSTITUTION SHALL
6 TERMINATE WHEN:

7 (1) THE DIRECTOR ORDERS THE INDIVIDUAL TRANSFERRED TO THE
8 DIVISION OF CORRECTION;

9 (2) WITH THE APPROVAL OF THE SECRETARY, THE BOARD OF REVIEW
10 ORDERS THE INDIVIDUAL PAROLED; OR

11 (3) THE INDIVIDUAL COMPLETES THE INDIVIDUAL'S TERM OF
12 CONFINEMENT AS PROVIDED BY LAW.

13 (G) CUSTODY; JURISDICTION.

14 AN INDIVIDUAL WHO IS TRANSFERRED TO THE YOUTH PROGRAM AS PROVIDED
15 UNDER THIS SECTION IS DEEMED TO BE COMMITTED TO THE CUSTODY OF AND
16 SUBJECT TO THE JURISDICTION OF THE INSTITUTION.

17 (H) DIMINUTION CREDITS AND OTHER PRIVILEGES.

18 AN INDIVIDUAL'S TRANSFER TO THE YOUTH PROGRAM DOES NOT AFFECT THE
19 INDIVIDUAL'S ELIGIBILITY FOR DIMINUTION CREDITS OR OTHER PRIVILEGES
20 AVAILABLE BY LAW TO AN INDIVIDUAL SENTENCED TO THE CUSTODY OF THE
21 DIVISION OF CORRECTION OR A LOCAL CORRECTIONAL FACILITY.

22 (I) REGULATIONS.

23 (1) REGULATIONS ADOPTED BY THE SECRETARY UNDER § 4-208 OF THIS
24 TITLE SHALL INCLUDE REGULATIONS GOVERNING THE MANAGEMENT AND
25 OPERATION OF THE YOUTH PROGRAM, INCLUDING CRITERIA FOR ADMISSION TO THE
26 YOUTH PROGRAM.

27 (2) REGULATIONS ESTABLISHING CRITERIA FOR ADMISSION TO THE
28 YOUTH PROGRAM SHALL:

29 (I) BE CONSISTENT WITH THIS TITLE AND ANY OTHER STATUTORY
30 REQUIREMENTS; AND

31 (II) INCLUDE CRITERIA REGARDING:

32 1. THE INDIVIDUAL'S AGE;

33 2. THE INDIVIDUAL'S MENTAL AND PHYSICAL CONDITION;

1 committed to "the custody of" the Patuxent Institution is added to state
2 expressly that which was formerly only implied in the reference to an
3 inmate being "committed to" the Patuxent Institution.

4 In subsection (h) of this section, the former reference to diminution
5 "confinement" credits is deleted as implicit in the reference to "diminution
6 credits" and for consistency throughout this article. See, e.g., §§ 3-709 and
7 11-507 of this article.

8 Also in subsection (h) of this section, the former reference to privileges
9 available by law "or regulation" is deleted as implicit in the reference to
10 "law". See General Revisor's Note to this article.

11 Also in subsection (h) of this section, the former reference to "a local
12 detention center" is deleted as included in the reference to the defined
13 term "local correctional facility". See § 1-101 of this article.

14 In subsection (i)(2)(ii)4 of this section, the references to a "crime" are
15 substituted for the former references to an "offense" for consistency
16 throughout this title. See General Revisor's Note to this article.

17 Defined terms: "Board of Review" § 4-101

18 "Director" § 4-101

19 "Division of Correction" § 1-101

20 "Institution" § 4-101

21 "Local correctional facility" § 1-101

22 "Secretary" § 1-101

23 TITLE 5. DIVISION OF PRETRIAL DETENTION AND SERVICES.

24 SUBTITLE 1. DEFINITIONS; GENERAL PROVISIONS.

25 5-101. DEFINITIONS.

26 (A) IN GENERAL.

27 IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

28 REVISOR'S NOTE: This subsection is new language derived without
29 substantive change from former Art. 41, § 4-1402(a).

30 (B) COMMISSIONER.

31 "COMMISSIONER" MEANS THE COMMISSIONER OF PRETRIAL DETENTION AND
32 SERVICES.

33 REVISOR'S NOTE: This subsection formerly was Art. 41, § 4-1402(b).

34 No changes are made.

1 (C) DIVISION.

2 "DIVISION" MEANS THE DIVISION OF PRETRIAL DETENTION AND SERVICES.

3 REVISOR'S NOTE: This subsection formerly was Art. 41, § 4-1402(d).

4 No changes are made.

5 5-102. LEGISLATIVE FINDINGS AND POLICIES.

6 (A) IN GENERAL.

7 THE CREATION OF THE DIVISION IS BASED ON THE FINDINGS AND POLICIES
8 SET FORTH IN THIS SECTION.

9 (B) NUMBER OF INDIVIDUALS ON PRETRIAL STATUS.

10 (1) EACH YEAR A LARGE NUMBER OF INDIVIDUALS HAVE CRIMINAL
11 CHARGES PLACED AGAINST THEM IN BALTIMORE CITY AND REMAIN ON PRETRIAL
12 STATUS UNTIL THESE CHARGES ARE ADJUDICATED.

13 (2) MANY OF THE INDIVIDUALS ON PRETRIAL STATUS WERE FORMERLY
14 COMMITTED TO THE BALTIMORE CITY JAIL.

15 (C) PUBLIC NEED.

16 THERE IS AN IMPORTANT PUBLIC NEED TO CENTRALIZE AND COORDINATE THE
17 PROVISION OF SERVICES TO INDIVIDUALS ON A PRETRIAL STATUS IN BALTIMORE
18 CITY.

19 (D) INSUFFICIENT FINANCIAL RESOURCES.

20 BALTIMORE CITY DOES NOT HAVE THE FINANCIAL RESOURCES TO FUND A
21 LOCAL CORRECTIONAL FACILITY AT A LEVEL SUFFICIENT TO MEET THE NEEDS OF
22 THOSE INCARCERATED.

23 (E) EFFICIENCY.

24 THE STATE RECOGNIZES THE NEED TO PROVIDE EFFECTIVE AND EFFICIENT
25 SERVICES TO THE PUBLIC THROUGH MANAGEMENT OF THE PRETRIAL POPULATION
26 IN BALTIMORE CITY.

27 REVISOR'S NOTE: This section is new language derived without substantive
28 change from former Art. 41, § 4-1401(a) through (e).

29 In subsections (b) and (c) of this section, the word "individuals" is
30 substituted for the former word "persons" to reflect the fact that other
31 entities included in the defined term "person" cannot be incarcerated. See
32 § 1-101 of this article for the definition of "person".

33 In subsection (d) of this section, the reference to a "local correctional

1 facility" is substituted for the former obsolete reference to the "Baltimore
2 City Jail".

3 In subsection (e) of this section, the reference to the "public" is substituted
4 for the former reference to the "citizens of Baltimore City" for consistency
5 throughout this article. See General Revisor's Note to this article.

6 Former Art. 41, § 4-1401(f), which related to preparation for the
7 establishment of a new agency, is deleted as obsolete.

8 Defined terms: "Division" § 5-101

9 "Local correctional facility" § 1-101

10 SUBTITLE 2. DIVISION OF PRETRIAL DETENTION AND SERVICES.

11 5-201. ESTABLISHED.

12 (A) IN GENERAL.

13 THERE IS A DIVISION OF PRETRIAL DETENTION AND SERVICES IN THE
14 DEPARTMENT.

15 (B) COMPOSITION.

16 THE DIVISION CONSISTS OF:

17 (1) A PRETRIAL RELEASE SERVICES PROGRAM;

18 (2) A BALTIMORE CITY DETENTION CENTER; AND

19 (3) A CENTRALIZED BOOKING FACILITY FOR BALTIMORE CITY.

20 (C) AUTHORITY.

21 THE DIVISION HAS THE SAME AUTHORITY WITH REGARD TO THE CUSTODY OF
22 ITS INMATES AND THE OPERATION OF THE BALTIMORE CITY DETENTION CENTER AS:

23 (1) THE DIVISION OF CORRECTION HAS UNDER THIS CODE WITH
24 REGARD TO THE CUSTODY OF ITS INMATES AND THE OPERATION OF THE DIVISION
25 OF CORRECTION; AND

26 (2) THE SHERIFFS HAVE UNDER THIS CODE WITH REGARD TO THE
27 DETENTION OF INMATES COMMITTED TO THEIR CUSTODY AND THE OPERATION OF
28 LOCAL CORRECTIONAL FACILITIES.

29 (D) CONSTRUCTION.

30 THIS TITLE DOES NOT LIMIT OR SUPERSEDE THE AUTHORITY OF A COURT TO
31 DETERMINE THE CONDITIONS OF PRETRIAL RELEASE.

1 REVISOR'S NOTE: Subsections (a), (b)(1) and (2), (c), and (d) of this section are
2 new language derived without substantive change from former Art. 41, §
3 4-1403.

4 Subsection (b)(3) of this section is new language added to reflect § 5-404 of
5 this title, which provides that the Division shall operate a centralized
6 booking facility for Baltimore City.

7 In subsection (c)(1) and (2) of this section, the former references to "Article
8 27, §§ 667 through 726" and "§§ 45 through 47 of Article 87", respectively,
9 are deleted as included in the references to "this Code".

10 In subsection (c)(2) of this section, the word "individuals" is substituted for
11 the former word "persons" to reflect the fact that other entities included in
12 the defined term "person" cannot be incarcerated. See § 1-101 of this
13 article for the definition of "person".

14 Defined terms: "Department" § 1-101

15 "Division" § 5-101

16 "Division of Correction" § 1-101

17 "Inmate" § 1-101

18 "Local correctional facility" § 1-101

19 5-202. COMMISSIONER.

20 (A) APPOINTMENT.

21 WITH THE APPROVAL OF THE GOVERNOR, THE SECRETARY SHALL APPOINT A
22 COMMISSIONER OF PRETRIAL DETENTION AND SERVICES.

23 (B) TENURE.

24 THE COMMISSIONER SERVES AT THE PLEASURE OF THE SECRETARY.

25 (C) POWERS AND DUTIES.

26 THE COMMISSIONER:

27 (1) HAS THE SAME AUTHORITY OVER THE DIVISION AS THIS CODE
28 VESTS IN THE COMMISSIONER OF CORRECTION OVER THE DIVISION OF
29 CORRECTION;

30 (2) SHALL KEEP SAFELY ANY INMATE COMMITTED OR TRANSFERRED TO
31 THE CUSTODY OF THE COMMISSIONER UNTIL THE INMATE IS DISCHARGED IN
32 ACCORDANCE WITH LAW;

33 (3) IS IN CHARGE OF THE DIVISION, SUBJECT TO THE AUTHORITY OF
34 THE SECRETARY;

35 (4) IS THE APPOINTING AUTHORITY FOR ALL EMPLOYEES OF THE
36 DIVISION;

1 (5) SHALL ESTABLISH A HOME DETENTION PROGRAM UNDER TERMS
2 AND CONDITIONS THAT THE SECRETARY PROVIDES;

3 (6) MAY ENTER AGREEMENTS WITH THE COMMISSIONER OF
4 CORRECTION AND GOVERNMENTAL UNITS FOR THE HOUSING OF ANY INMATE HELD
5 IN THE BALTIMORE CITY DETENTION CENTER;

6 (7) MAY ENTER AGREEMENTS FOR THE HOUSING OF ANY INMATE
7 COMMITTED TO FEDERAL OR LOCAL GOVERNMENTAL UNITS IN THE BALTIMORE
8 CITY DETENTION CENTER; AND

9 (8) MAY ENTER OTHER AGREEMENTS NECESSARY TO CARRY OUT THE
10 PURPOSES OF THIS TITLE.

11 (D) HOME DETENTION PROGRAM.

12 (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION AND
13 NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE COMMISSIONER SHALL
14 ESTABLISH BY REGULATION THE TERMS AND CONDITIONS OF THE HOME
15 DETENTION PROGRAM REQUIRED UNDER SUBSECTION (C)(5) OF THIS SECTION.

16 (2) THE AUTHORITY OF A COURT TO DETERMINE THE CONDITIONS OF
17 PRETRIAL RELEASE OR TO FIND THAT A DEFENDANT AWAITING TRIAL MAY NOT BE
18 PLACED ON A HOME DETENTION PROGRAM MAY NOT BE LIMITED OR SUPERSEDED
19 BY:

20 (I) A REGULATION OF THE DIVISION OR DEPARTMENT; OR

21 (II) THE DIVISION OR THE COMMISSIONER.

22 REVISOR'S NOTE: This section is new language derived without substantive
23 change from former Art. 41, § 4-1404.

24 Subsection (a) of this section is restated in standard language used to
25 provide for the appointment of a commissioner. See, e.g., § 3-202 of this
26 article.

27 In subsection (c)(1) of this section, the former reference to "Article 27, §§
28 667 through 726" is deleted as included in the reference to "this Code".

29 In subsection (c)(5) of this section, the reference to terms "and conditions"
30 is added for consistency with subsection (d)(1) of this section.

31 In the introductory language of subsection (d)(2) of this section, the former
32 reference to a "judge of the circuit or district" court is deleted as implicit in
33 the reference to "court".

34 Defined terms: "Commissioner" § 5-101

35 "Commissioner of Correction" § 1-101

36 "Department" § 1-101

1 "Division" § 5-101

2 "Division of Correction" § 1-101

3 "Inmate" § 1-101

4 "Secretary" § 1-101

5 5-203. DEPUTY COMMISSIONER.

6 (A) ESTABLISHED; APPOINTMENT.

7 WITH THE APPROVAL OF THE SECRETARY, THE COMMISSIONER SHALL APPOINT
8 A DEPUTY COMMISSIONER OF PRETRIAL DETENTION AND SERVICES.

9 (B) TENURE.

10 THE DEPUTY COMMISSIONER SERVES AT THE PLEASURE OF THE
11 COMMISSIONER.

12 (C) ACTING COMMISSIONER.

13 THE DEPUTY COMMISSIONER SHALL BE THE ACTING COMMISSIONER IN THE
14 ABSENCE OF THE COMMISSIONER.

15 REVISOR'S NOTE: This section is new language derived without substantive
16 change from former Art. 41, § 4-1405.

17 Subsection (a) is restated in standard language. See Revisor's Note to §
18 5-202 of this subtitle.

19 Defined terms: "Commissioner" § 5-101

20 "Secretary" § 1-101

21 SUBTITLE 3. PRETRIAL RELEASE SERVICES PROGRAM.

22 5-301. ESTABLISHED.

23 (A) IN GENERAL.

24 THERE IS A PRETRIAL RELEASE SERVICES PROGRAM IN THE DIVISION.

25 (B) FUNCTION.

26 SUBJECT TO THE AUTHORITY OF THE COMMISSIONER AND IN ADDITION TO
27 ANY OTHER DUTIES ESTABLISHED BY LAW, THE PRETRIAL RELEASE SERVICES
28 PROGRAM SHALL PERFORM THE PRETRIAL RELEASE DUTIES FORMERLY
29 PERFORMED BY THE PRETRIAL RELEASE SERVICES DIVISION OF THE DEPARTMENT
30 OF PUBLIC SAFETY AND CORRECTIONAL SERVICES, THE PRETRIAL RELEASE
31 COMMITTEE, AND THE DIVISION OF PAROLE AND PROBATION.

32 REVISOR'S NOTE: This section is new language derived without substantive
33 change from former Art. 41, § 4-1406(b) and, as it establishes the Pretrial
34 Release Services Program, the first sentence of (a).

1 Defined terms: "Commissioner" § 5-101

2 "Division" § 5-101

3 "Division of Parole and Probation" § 1-101

4 5-302. DIRECTOR; DEPUTY DIRECTOR.

5 (A) APPOINTMENT.

6 (1) WITH THE APPROVAL OF THE SECRETARY, THE COMMISSIONER
7 SHALL APPOINT THE DIRECTOR AND DEPUTY DIRECTOR OF THE PRETRIAL RELEASE
8 SERVICES PROGRAM.

9 (2) THE DIRECTOR IS THE HEAD OF THE PRETRIAL RELEASE SERVICES
10 PROGRAM.

11 (B) TENURE; SALARY.

12 (1) THE DIRECTOR AND DEPUTY DIRECTOR OF THE PRETRIAL RELEASE
13 SERVICES PROGRAM SERVE AT THE PLEASURE OF THE COMMISSIONER.

14 (2) THE DIRECTOR AND DEPUTY DIRECTOR ARE ENTITLED TO THE
15 COMPENSATION PROVIDED IN THE STATE BUDGET.

16 REVISOR'S NOTE: This section is new language derived without substantive
17 change from the second and third sentences and, as it specified the head of
18 the Pretrial Release Services Program, the first sentence of former Art. 41,
19 § 4-1406(a).

20 In subsection (b)(2) of this section, the reference to "compensation" is
21 substituted for the former reference to "salaries" for consistency
22 throughout this article. See General Revisor's Note to this article.

23 Also in subsection (b)(2) of this section, the former reference to the
24 "annual" State budget is deleted as implicit in the reference to the "State
25 budget".

26 Defined terms: "Commissioner" § 5-101

27 "Secretary" § 1-101

28 SUBTITLE 4. BALTIMORE CITY DETENTION CENTER.

29 5-401. IN GENERAL.

30 (A) ESTABLISHED.

31 THERE IS A BALTIMORE CITY DETENTION CENTER IN THE DIVISION.

32 (B) FUNCTION.

1 THE BALTIMORE CITY DETENTION CENTER IS A PRETRIAL DETENTION
2 FACILITY FOR INMATES COMMITTED OR TRANSFERRED TO THE CUSTODY OF THE
3 COMMISSIONER.

4 (C) HOUSING AUTHORIZED.

5 THE SECRETARY MAY AUTHORIZE THE HOUSING IN THE BALTIMORE CITY
6 DETENTION CENTER OF ANY INMATE HELD IN CUSTODY UNDER ANY UNIT IN THE
7 DEPARTMENT.

8 REVISOR'S NOTE: This section is new language derived without substantive
9 change from former Art. 41, § 4-1407.

10 In subsections (b) and (c) of this section, the references to "individuals" and
11 "individual", respectively, are substituted for the former reference to a
12 "person" to reflect the fact that other entities included in the defined term
13 "person" cannot be incarcerated. See § 1-101 of this article for the
14 definition of "person".

15 Defined terms: "Commissioner" § 5-101

16 "Department" § 1-101

17 "Division" § 5-101

18 "Inmate" § 1-101

19 "Secretary" § 1-101

20 5-402. WARDEN.

21 (A) APPOINTMENT.

22 WITH THE APPROVAL OF THE SECRETARY, THE COMMISSIONER SHALL APPOINT
23 A WARDEN OF THE BALTIMORE CITY DETENTION CENTER.

24 (B) TENURE.

25 THE WARDEN SERVES AT THE PLEASURE OF THE COMMISSIONER.

26 (C) DUTIES.

27 SUBJECT TO THE AUTHORITY OF THE COMMISSIONER AND THE SECRETARY,
28 THE WARDEN IS IN CHARGE OF THE BALTIMORE CITY DETENTION CENTER.

29 REVISOR'S NOTE: This section formerly was Art. 41, § 4-1408.

30 The only changes are in style.

31 Defined terms: "Commissioner" § 5-101

32 "Secretary" § 1-101

33 5-403. ASSISTANT WARDENS.

34 (A) APPOINTMENT.

1 THE COMMISSIONER MAY APPOINT ASSISTANT WARDENS FOR THE BALTIMORE
2 CITY DETENTION CENTER AS PROVIDED IN THE STATE BUDGET.

3 (B) TENURE.

4 AN ASSISTANT WARDEN SERVES AT THE PLEASURE OF THE COMMISSIONER.

5 (C) DUTIES.

6 SUBJECT TO THE AUTHORITY OF THE COMMISSIONER AND THE SECRETARY, IN
7 THE ABSENCE OF THE WARDEN, AN ASSISTANT WARDEN DESIGNATED BY THE
8 WARDEN IS IN CHARGE OF THE BALTIMORE CITY DETENTION CENTER.

9 REVISOR'S NOTE: This section is new language derived without substantive
10 change from former Art. 41, § 4-1409.

11 In subsection (a) of this section, the reference to the "State" budget is
12 substituted for the former reference to the "annual" budget for consistency
13 with § 5-302(b)(2) of this title and throughout this article.

14 Defined terms: "Commissioner" § 5-101

15 "Secretary" § 1-101

16 5-404. CENTRALIZED BOOKING FACILITY.

17 (A) REQUIRED.

18 THE DIVISION SHALL OPERATE A CENTRALIZED BOOKING FACILITY FOR
19 BALTIMORE CITY.

20 (B) FACILITY.

21 THE CENTRALIZED BOOKING FACILITY SHALL INCLUDE:

22 (1) PRETRIAL RELEASE SERVICES;

23 (2) DISTRICT COURT COMMISSIONERS;

24 (3) AN OFFICE OF THE STATE'S ATTORNEY FOR BALTIMORE CITY; AND

25 (4) BALTIMORE CITY POLICE SERVICES.

26 (C) VIDEO BAIL REVIEW.

27 THE CENTRALIZED BOOKING FACILITY OR THE BALTIMORE CITY DETENTION
28 CENTER SHALL BE EQUIPPED FOR VIDEO BAIL REVIEW.

29 REVISOR'S NOTE: This section is new language derived without substantive
30 change from former Art. 41, § 4-1414.

31 In subsection (a) of this section, the former reference to "July 1, 1995", is

1 deleted as obsolete.

2 Defined term: "Division" § 5-101

3 5-405. INMATE MEDICAL CARE.

4 (A) IN GENERAL.

5 AN INMATE IN THE BALTIMORE CITY DETENTION CENTER WHO IS SICK,
6 INJURED, OR DISABLED SHALL:

7 (1) REIMBURSE THE STATE, AS APPROPRIATE, FOR THE PAYMENT OF
8 MEDICAL EXPENSES; AND

9 (2) PROVIDE THE WARDEN WITH ANY INFORMATION RELATING TO:

10 (I) THE EXISTENCE OF ANY HEALTH INSURANCE, GROUP HEALTH
11 PLAN, OR PREPAID MEDICAL CARE COVERAGE UNDER WHICH THE INMATE IS
12 INSURED OR COVERED;

13 (II) THE INMATE'S ELIGIBILITY FOR BENEFITS UNDER THE
14 MARYLAND MEDICAL ASSISTANCE PROGRAM;

15 (III) THE NAME AND ADDRESS OF THE THIRD PARTY PAYOR; AND

16 (IV) ANY POLICY OR OTHER IDENTIFYING NUMBER RELATING TO
17 ITEMS (I) THROUGH (III) OF THIS ITEM.

18 (B) FEE FOR HEALTH CARE SERVICES.

19 (1) IN ADDITION TO OBTAINING ANY REIMBURSEMENT AUTHORIZED
20 UNDER SUBSECTION (A) OF THIS SECTION AND SUBJECT TO PARAGRAPH (4) OF THIS
21 SUBSECTION, THE DEPARTMENT SHALL ESTABLISH A REASONABLE FEE, NOT TO
22 EXCEED \$4, FOR EACH VISIT BY AN INMATE TO AN INSTITUTIONAL MEDICAL UNIT OR
23 NONINSTITUTIONAL PHYSICIAN, DENTIST, OR OPTOMETRIST.

24 (2) THE PER VISIT FEE SHALL BE DEDUCTED FROM AN INMATE'S
25 SPENDING FINANCIAL ACCOUNT, RESERVE FINANCIAL ACCOUNT, OR SIMILAR
26 ACCOUNT HELD BY THE WARDEN ON BEHALF OF THE INMATE.

27 (3) THE FEES COLLECTED UNDER THIS SUBSECTION SHALL BE
28 DEPOSITED IN THE GENERAL FUND OF THE STATE.

29 (4) THIS SUBSECTION DOES NOT APPLY TO A VISIT BY AN INMATE TO A
30 MEDICAL UNIT OR A PHYSICIAN, DENTIST, OR OPTOMETRIST IF THE VISIT IS:

31 (I) REQUIRED AS A PART OF THE INTAKE PROCESS;

32 (II) REQUIRED FOR AN INITIAL PHYSICAL EXAMINATION;

33 (III) DUE TO A REFERRAL BY A NURSE OR PHYSICIAN'S ASSISTANT;

1 (IV) PROVIDED DURING A FOLLOW-UP VISIT THAT IS INITIATED BY
2 A MEDICAL PROFESSIONAL FROM THE BALTIMORE CITY DETENTION CENTER;

3 (V) INITIATED BY A MEDICAL OR MENTAL HEALTH STAFF MEMBER
4 OF THE BALTIMORE CITY DETENTION CENTER; OR

5 (VI) REQUIRED FOR NECESSARY TREATMENT.

6 (C) LIMITATION ON LIABILITY FOR REIMBURSEMENT AND CO-PAYMENTS.

7 SUBSECTIONS (A) AND (B) OF THIS SECTION DO NOT IMPOSE LIABILITY FOR
8 REIMBURSEMENT OR PAYMENT OF MEDICAL EXPENSES ON ANY PERSON OTHER
9 THAN AN INMATE PERSONALLY OR THROUGH A PERSON THAT PROVIDES
10 INSURANCE, COVERAGE, OR OTHER BENEFITS DESCRIBED UNDER SUBSECTION (A)
11 OF THIS SECTION.

12 REVISOR'S NOTE: This section is new language derived without substantive
13 change from former Art. 87, § 46(a), as it related to the warden of the
14 Baltimore City Detention Center, and (c) through (e), as they related to
15 inmates committed to the custody of the Commissioner of Pretrial
16 Detention and Services.

17 As to the revision of former Art. 87, § 46(a) and (c) through (e), as they
18 relate to local correctional facilities, see § 11-203 of this article.

19 In subsection (a)(2)(i) of this section, the reference to an inmate who is
20 "covered" or insured is added because it is not technically accurate to refer
21 to some types of prepaid medical coverage as "insurance".

22 In subsection (a)(2)(iv) of this section, the phrase "relating to items (i)
23 through (iii) of this item" is added to state expressly that which was only
24 implied in the former law.

25 In subsection (c) of this section, the reference to "insurance" is added for
26 consistency with subsection (a)(2)(i) of this section.

27 Also in subsection (c) of this section, the former reference to a person or
28 "entity" is deleted in light of § 1-101 of this article, which defines "person"
29 to include any "entity".

30 Also in subsection (c) of this section, the reference to "reimbursement" or
31 payment is added for consistency with the language of subsections (a) and
32 (b) of this section.

33 Defined terms: "Department" § 1-101

34 "Inmate" § 1-101

35 "Person" § 1-101

1 5-406. AUTHORIZATION FOR MEDICAL TREATMENT FOR JUVENILE INMATES.

2 (A) IN GENERAL.

3 THE WARDEN OF THE BALTIMORE CITY DETENTION CENTER AND THE
4 WARDEN'S DESIGNEES MAY AUTHORIZE MEDICAL TREATMENT OF A JUVENILE
5 INMATE WHEN IN THE JUDGMENT OF THE WARDEN OR A DESIGNEE THE
6 TREATMENT IS REQUIRED AND A PARENT, GUARDIAN, OR PERSON IN LOCO PARENTIS
7 OF THE JUVENILE IS NOT AVAILABLE ON A TIMELY BASIS TO GIVE THE
8 AUTHORIZATION.

9 (B) NO LIABILITY.

10 THE WARDEN OR THE WARDEN'S DESIGNEES MAY NOT BE HELD LIABLE FOR
11 AUTHORIZING MEDICAL TREATMENT UNDER THIS SECTION IN GOOD FAITH.

12 REVISOR'S NOTE: This section is new language derived without substantive
13 change from former Art. 27, § 700H.

14 In subsection (a) of this section, the former reference to a juvenile inmate
15 "of the jail" is deleted as implicit in the reference to a "juvenile inmate".

16 The Correctional Services Article Review Committee notes, for
17 consideration by the General Assembly, that subsection (a) of this section is
18 inconsistent with similar provisions relating to the Division of Correction,
19 local correctional facilities, and the Patuxent Institution. Under §§ 4-210
20 and 9-606 of this article, the managing official of a correctional facility
21 may authorize treatment for a juvenile inmate only "[o]n the
22 recommendation of a health care provider". The General Assembly may
23 wish to amend subsection (a) of this section to include a similar
24 requirement.

25 The Correctional Services Article Review Committee also notes, for
26 consideration by the General Assembly, that the meaning of subsection (b)
27 of this section is unclear in light of SG § 12-105 and CJ § 5-522(b), which
28 grant immunity from liability to State personnel. Under SG § 12-105 and
29 CJ § 5-522(b), State personnel are immune from suit in State courts and
30 from liability in tort for a tortious act or omission that is within the scope
31 of the public duties of the State personnel and is made without malice or
32 gross negligence. The Committee is uncertain as to whether subsection (b)
33 of this section establishes any additional protection against liability for the
34 Director or the Director's designee. The General Assembly may wish to
35 examine this issue. See also § 4-210(b) of this article.

36 Defined term: "Inmate" § 1-101

37 GENERAL REVISOR'S NOTE TO TITLE:

38 Former Art. 41, §§ 4-1411 through 4-1413 are transferred to the Session Laws.

1 TITLE 6. PAROLE AND PROBATION.

2 SUBTITLE 1. DIVISION OF PAROLE AND PROBATION.

3 6-101. DEFINITIONS.

4 (A) IN GENERAL.

5 IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

6 REVISOR'S NOTE: This subsection formerly was Art. 41, § 4-602A(a)(1).

7 No changes are made.

8 (B) COMMISSION.

9 "COMMISSION" MEANS THE MARYLAND PAROLE COMMISSION.

10 REVISOR'S NOTE: This subsection formerly was Art. 41, § 4-602A(a)(2).

11 No changes are made.

12 (C) CRIME OF VIOLENCE.

13 "CRIME OF VIOLENCE" HAS THE MEANING STATED IN ARTICLE 27, § 643B OF THE
14 CODE.15 REVISOR'S NOTE: This subsection is new language added to avoid repetition
16 of the phrase "a crime of violence as defined in Article 27, § 643B of the
17 Code".

18 (D) DIRECTOR.

19 "DIRECTOR" MEANS THE DIRECTOR OF THE DIVISION OR THE DIRECTOR'S
20 DESIGNEE.

21 REVISOR'S NOTE: This subsection formerly was Art. 41, § 4-602A(a)(3).

22 The only changes are in style.

23 Defined term: "Division" § 6-101

24 (E) DIVISION.

25 "DIVISION" MEANS THE DIVISION OF PAROLE AND PROBATION.

26 REVISOR'S NOTE: This subsection formerly was Art. 41, § 4-602A(a)(4).

27 No changes are made.

28 (F) MANDATORY SUPERVISION.

1 "MANDATORY SUPERVISION" HAS THE MEANING STATED IN § 7-101 OF THIS
2 ARTICLE.

3 REVISOR'S NOTE: This subsection is new language derived without
4 substantive change from former Art. 41, § 4-612(a)(1), as it related to the
5 definition of "mandatory supervision".

6 The definition of the term "mandatory supervision" in former Art. 41, §
7 4-612(a)(1) was applicable only to former Art. 41, § 4-612, which is revised
8 in Title 7, Subtitle 5 of this article. However, the term "mandatory
9 supervision" was also used in former Art. 41, §§ 4-601(b)(2) and 4-602A(d),
10 which are revised, respectively, in §§ 6-104(a)(2) and 6-108(c) of this
11 subtitle. In this revision, the definition of "mandatory supervision" in
12 former Art. 41, § 4-612(a)(1) is made applicable to this subtitle. No
13 substantive change is intended.

14 (G) OFFENDER.

15 "OFFENDER" MEANS AN INDIVIDUAL ON PAROLE OR UNDER MANDATORY
16 SUPERVISION.

17 REVISOR'S NOTE: This subsection formerly was Art. 41, § 4-602A(a)(5).

18 The former reference to an individual "who has a special condition of home
19 detention" is deleted as unnecessary in light of the contexts in which this
20 term is used throughout this title.

21 The only other changes are in style.

22 (H) PAROLEE.

23 "PAROLEE" MEANS AN INDIVIDUAL WHO HAS BEEN RELEASED ON PAROLE.

24 REVISOR'S NOTE: This subsection is new language added to avoid repetition
25 of the phrase "an individual who has been released on parole".

26 (I) PROGRAM.

27 "PROGRAM" MEANS A HOME DETENTION PROGRAM ESTABLISHED UNDER §
28 6-108 OF THIS SUBTITLE.

29 REVISOR'S NOTE: This subsection formerly was Art. 41, § 4-602A(a)(6).

30 The reference to a program established under "§ 6-108 of this subtitle" is
31 substituted for the former reference to a program established under "this
32 subheading" to reflect the revised organization of this subtitle.

33 No other changes are made.

1 6-102. SCOPE OF SUBTITLE.

2 THIS SUBTITLE DOES NOT APPLY TO:

3 (1) AN INMATE RETAINED IN THE CUSTODY OF THE PATUXENT
4 INSTITUTION FOR:

5 (I) EXAMINATION TO DETERMINE IF THE INMATE IS AN ELIGIBLE
6 PERSON, AS DEFINED IN § 4-101 OF THIS ARTICLE; OR

7 (II) CONFINEMENT AS AN ELIGIBLE PERSON UNDER TITLE 4 OF
8 THIS ARTICLE; OR

9 (2) A JUVENILE COMMITTED TO THE JURISDICTION OF THE
10 DEPARTMENT OF JUVENILE JUSTICE OR AN INSTITUTION OR FACILITY UNDER ITS
11 JURISDICTION.

12 REVISOR'S NOTE: This section is new language derived without substantive
13 change from former Art. 41, § 4-611, as it related to the scope of former
14 Art. 41, Title 4, Subtitle 6.

15 In the introductory language of this section, the phrase "apply to" is
16 substituted for the former phrase "extend to or affect" for brevity.

17 In item (1)(i) of this section, the reference to an examination to determine
18 "if the inmate is an eligible person, as defined in § 4-101 of this article" is
19 added to state expressly that which was only implied in the former
20 reference to an examination to determine "eligibility".

21 In item (1)(ii) of this section, the reference to confinement as an eligible
22 person "under Title 4 of this article" is added to state expressly that which
23 was only implied in the former reference to "confinement as an eligible
24 person".

25 Defined term: "Inmate" § 1-101

26 6-103. ESTABLISHED.

27 THERE IS A DIVISION OF PAROLE AND PROBATION IN THE DEPARTMENT.

28 REVISOR'S NOTE: This section is new language derived without substantive
29 change from the first sentence of former Art. 41, § 4-601(a), as it
30 established the Division of Parole and Probation.

31 Defined terms: "Department" § 1-101

32 "Division of Parole and Probation" § 1-101

33 6-104. DUTIES AND POWERS GENERALLY; FUNDING FOR DRINKING DRIVER
34 MONITOR PROGRAM.

35 (A) DUTIES GENERALLY.

1 SUBJECT TO THE AUTHORITY OF THE SECRETARY AND IN ADDITION TO ANY
2 OTHER DUTIES ESTABLISHED BY LAW, THE DIVISION:

3 (1) SHALL:

4 (I) SUPERVISE THE CONDUCT OF PAROLEES;

5 (II) SUPERVISE AN INDIVIDUAL UNDER MANDATORY SUPERVISION
6 UNTIL THE EXPIRATION OF THE INDIVIDUAL'S MAXIMUM TERM OR TERMS OF
7 CONFINEMENT;

8 (III) REGULARLY INFORM THE COMMISSION OF THE ACTIVITIES OF
9 OFFENDERS WHO ARE SUPERVISED BY THE DIVISION;

10 (IV) ISSUE A WARRANT FOR THE RETAKING OF AN OFFENDER
11 CHARGED WITH A VIOLATION OF A CONDITION OF PAROLE OR MANDATORY
12 SUPERVISION, IF THIS AUTHORITY IS DELEGATED BY THE COMMISSION TO THE
13 DIRECTOR OF THE DIVISION; AND

14 (V) ADMINISTER THE DRINKING DRIVER MONITOR PROGRAM AND
15 COLLECT SUPERVISION FEES IN ACCORDANCE WITH THE STATE DRINKING DRIVER
16 PROGRAM INTERAGENCY AGREEMENT; AND

17 (2) MAY RECOMMEND:

18 (I) THAT THE COMMISSION MODIFY ANY CONDITION OF PAROLE
19 OR MANDATORY SUPERVISION; AND

20 (II) THAT THE COMMISSION ISSUE A WARRANT FOR THE RETAKING
21 OF AN OFFENDER.

22 (B) FUNDING FOR DRINKING DRIVER MONITOR PROGRAM.

23 FUNDING FOR THE DRINKING DRIVER MONITOR PROGRAM SHALL BE AS
24 PROVIDED IN THE STATE BUDGET FROM GENERAL FUNDS.

25 REVISOR'S NOTE: This section is new language derived without substantive
26 change from former Art. 41, §§ 4-601(b) and (e) and 4-612(d).

27 In the introductory language of subsection (a) of this section, the reference
28 to other duties "established by law" is substituted for the former reference
29 to other duties "provided for herein or by law" for brevity.

30 In subsection (a)(1)(ii) of this section, the reference to the maximum term
31 or terms of "confinement" is substituted for the former reference to the
32 maximum term or terms of "the sentence" for consistency throughout this
33 article. See General Revisor's Note to this article.

34 In subsection (a)(1)(iii) of this section, the reference to "offenders" is
35 substituted for the former reference to "parolees" for consistency with §
36 7-502(b) of this article, which provides that "[a]n individual on mandatory

1 supervision is subject to all laws, rules, regulations, and conditions that
2 apply to parolees". Correspondingly, in subsection (a)(1)(iv) and (2)(ii) of
3 this section, the references to an "offender" are substituted for the former
4 references to "parolees" and, in subsection (a)(1)(iv) of this section, the
5 reference to a violation of a condition of parole "or mandatory supervision"
6 is added.

7 In subsection (a)(1)(iv) of this section, the reference to a violation of "a
8 condition of" parole or mandatory supervision is added to state expressly
9 that which was only implied in the former reference to a violation of
10 "parole" and for consistency within this subtitle.

11 Also in subsection (a)(1)(iv) of this section, the reference to authority
12 delegated "by the Commission" is added to state expressly that which was
13 only implied in the former law, i.e., the Commission is the entity that may
14 delegate authority to issue a retake warrant, and for consistency with §
15 7-206(2) of this article.

16 Defined terms: "Commission" § 6-101

17 "Director" § 6-101

18 "Division" § 6-101

19 "Mandatory supervision" § 6-101

20 "Parolee" § 6-101

21 "Secretary" § 1-101

22 6-105. DIRECTOR OF DIVISION.

23 (A) APPOINTMENT.

24 WITH THE APPROVAL OF THE GOVERNOR AND THE ADVICE AND CONSENT OF
25 THE SENATE, THE SECRETARY SHALL APPOINT THE DIRECTOR.

26 (B) POSITION.

27 THE DIRECTOR IS THE HEAD OF THE DIVISION.

28 (C) OATH.

29 BEFORE TAKING OFFICE, THE APPOINTEE SHALL TAKE THE OATH REQUIRED
30 BY ARTICLE I, § 9 OF THE MARYLAND CONSTITUTION.

31 (D) TERM.

32 THE DIRECTOR SERVES AT THE PLEASURE OF THE SECRETARY.

33 (E) COMPENSATION.

34 THE DIRECTOR IS ENTITLED TO THE COMPENSATION PROVIDED IN THE STATE
35 BUDGET.

1 REVISOR'S NOTE: Subsections (a), (b), (d), and (e) of this section are new
2 language derived without substantive change from former Art. 41, §
3 4-601(a), except as it related to the establishment of the Division of Parole
4 and Probation.

5 Subsection (c) of this section is standard language added to state the
6 requirement that an individual appointed to any office of profit or trust
7 take the oath specified in Md. Constitution, Art. I, § 9.

8 In subsection (d) of this section, the former reference to the Director's
9 appointment "for an indefinite term" is deleted as unnecessary. A term that
10 is not fixed is necessarily indefinite. Also, appointment "for an indefinite
11 term" is implicit in the reference to serving "at the pleasure of the
12 Secretary".

13 In subsection (e) of this section, the reference to the Director's
14 "compensation" is substituted for the former reference to the Director's
15 "salary" for accuracy and consistency throughout this article. See General
16 Revisor's Note to this article.

17 Also in subsection (e) of this section, the former reference to the "annual"
18 State budget is deleted as implicit in the reference to "State budget".
19 Under Md. Constitution, Art. III, § 52, the Governor is required to submit
20 and the General Assembly is required to pass during each legislative
21 session a budget for the next fiscal year.

22 Defined terms: "Director" § 6-101

23 "Division" § 6-101

24 "Secretary" § 1-101

25 6-106. POWERS OF DIRECTOR.

26 (A) AUTHORIZATION OF EMPLOYEES.

27 THE DIRECTOR MAY AUTHORIZE PAROLE AND PROBATION EMPLOYEES OF THE
28 DIVISION TO:

29 (1) EXECUTE WARRANTS FOR THE RETAKING OF OFFENDERS;

30 (2) OBTAIN AND EXECUTE SEARCH WARRANTS AS AUTHORIZED UNDER
31 § 6-109 OF THIS SUBTITLE; AND

32 (3) ARREST OFFENDERS IN THE PROGRAM AS AUTHORIZED UNDER
33 ARTICLE 27, § 594B OF THE CODE.

34 (B) QUALIFICATIONS OF EMPLOYEES.

35 A PAROLE AND PROBATION EMPLOYEE WHO IS AUTHORIZED TO MAKE ARRESTS
36 UNDER THIS SECTION SHALL:

1 (1) MEET THE MINIMUM QUALIFICATIONS REQUIRED BY THE
2 MARYLAND POLICE TRAINING COMMISSION; AND

3 (2) COMPLETE SATISFACTORILY THE TRAINING PRESCRIBED BY THE
4 MARYLAND POLICE TRAINING COMMISSION.

5 REVISOR'S NOTE: This section is new language derived without substantive
6 change from former Art. 41, § 4-601(c) and (d).

7 In the introductory language of subsection (a) of this section, the former
8 reference to "certain" employees is deleted as surplusage.

9 In subsection (a)(1) of this section, the reference to "offenders" is
10 substituted for the former reference to "alleged parole violators" for
11 consistency with § 7-502(b) of this article, which provides that "[a]n
12 individual on mandatory supervision is subject to all laws, rules,
13 regulations, and conditions that apply to parolees".

14 Also in subsection (a)(1) of this section, the former reference to the
15 execution of warrants for the retaking of offenders "in accordance with §
16 4-602A of this subtitle" is deleted as surplusage because former Art. 41, §
17 4-602A, which is revised in § 6-108 of this subtitle, did not relate to the
18 execution of warrants for the retaking of offenders.

19 In subsection (a)(2) of this section, the reference to "search" warrants is
20 added to state expressly that which was only implied in the former
21 reference to "warrants" and for consistency with § 6-109 of this subtitle.

22 In subsection (a)(3) of this section, the former reference to the Director
23 authorizing certain employees to "[h]ave the power to" arrest offenders is
24 deleted as unnecessary in light of the reference, in the introductory
25 language of subsection (a) of this section, to the Director "authoriz[ing]" the
26 employees to arrest offenders.

27 In subsection (b)(2) of this section, the reference to "satisfactorily"
28 completing training prescribed by the Maryland Police Training
29 Commission is added to state expressly that which was only implied in the
30 former law and for consistency with former Art. 41, § 4-602A(j). See §
31 6-108 of this subtitle and accompanying Revisor's Note.

32 Defined terms: "Director" § 6-101

33 "Division" § 6-101

34 "Offender" § 6-101

35 "Program" § 6-101

36 6-107. RETAKING ALLEGED VIOLATOR.

37 A SHERIFF OR POLICE OFFICER AUTHORIZED TO SERVE CRIMINAL PROCESS OR
38 A PAROLE AND PROBATION EMPLOYEE DESIGNATED UNDER § 6-106 OF THIS
39 SUBTITLE WHO RECEIVES A WARRANT FOR THE RETAKING OF AN ALLEGED

1 VIOLATOR SHALL EXECUTE THE WARRANT IN ACCORDANCE WITH THE DIRECTIONS
2 IN THE WARRANT.

3 REVISOR'S NOTE: This section is new language derived without substantive
4 change from former Art. 41, § 4-602.

5 The former reference to "certain" parole and probation employees is
6 deleted as unnecessary in light of the specific reference to parole and
7 probation employees "designated under § 6-106 of this subtitle".

8 The reference to "§ 6-106 of this subtitle" is substituted for the former
9 reference to "[Art. 41,] § 4-602A" for consistency with § 6-106 of this
10 subtitle, which authorizes the Director to designate parole and probation
11 employees to execute warrants for the retaking of offenders. Former Art.
12 41, § 4-602A, which is revised in § 6-108 of this subtitle, did not relate to
13 the execution of warrants for the retaking of offenders.

14 The former reference to a "parole" violator is deleted for consistency with §
15 7-502(b) of this article, which provides that "[a]n individual on mandatory
16 supervision is subject to all laws, rules, regulations, and conditions that
17 apply to parolees".

18 The former reference to a parole and probation employee being
19 "authorized" to execute the warrant is deleted as implicit in the
20 requirement that the employee "shall" execute the warrant.

21 6-108. HOME DETENTION PROGRAM -- IN GENERAL.

22 (A) HOME DETENTION AUTHORIZED.

23 WITH THE SECRETARY'S APPROVAL, THE DIRECTOR MAY ESTABLISH A HOME
24 DETENTION PROGRAM UNDER WHICH AN OFFENDER MAY LIVE IN A PRIVATE
25 DWELLING THAT THE DIRECTOR APPROVES.

26 (B) METHODS OF SUPERVISION.

27 AN OFFENDER IN THE PROGRAM SHALL BE SUPERVISED BY MEANS OF:

28 (1) ELECTRONIC DEVICES; AND

29 (2) DIRECT CONTACT BY EMPLOYEES OF THE DIVISION.

30 (C) ELIGIBILITY.

31 AN OFFENDER IS NOT ELIGIBLE FOR THE PROGRAM IF A VIOLATION OF A
32 CONDITION OF PAROLE OR MANDATORY SUPERVISION IS BASED ON THE
33 COMMISSION OF A CRIME OF VIOLENCE.

34 (D) RESTRICTIONS ON MOVEMENT.

1 WHILE IN THE PROGRAM, AN OFFENDER MUST REMAIN IN THE OFFENDER'S
2 APPROVED DWELLING EXCEPT:

3 (1) WITH THE APPROVAL OF THE DIRECTOR, TO GO DIRECTLY TO AND
4 FROM:

5 (I) THE OFFENDER'S APPROVED PLACE OF EMPLOYMENT;

6 (II) A MEDICAL OR MENTAL HEALTH TREATMENT FACILITY; OR

7 (III) OFFICES OF THE DEPARTMENT;

8 (2) AS REQUIRED BY LEGITIMATE MEDICAL OR OTHER EMERGENCIES;
9 OR

10 (3) AS OTHERWISE ALLOWED OR DIRECTED BY THE DIRECTOR.

11 (E) LIVING EXPENSES AND SUPPORT PAYMENTS.

12 (1) AN OFFENDER IN THE PROGRAM IS RESPONSIBLE FOR ALL OF THE
13 OFFENDER'S LIVING EXPENSES, INCLUDING THOSE FOR FOOD, CLOTHING, MEDICAL
14 CARE, SHELTER, AND UTILITIES.

15 (2) UNLESS OTHERWISE ALLOWED BY THE COMMISSION, AS A
16 CONDITION OF PARTICIPATION IN THE PROGRAM, AN OFFENDER SHALL MAKE ANY
17 COURT ORDERED PAYMENTS FOR THE SUPPORT OF DEPENDENTS.

18 (F) MONITORING FEE.

19 (1) AFTER DETERMINING THE AMOUNT OF REASONABLE PAYMENTS
20 NECESSARY TO SATISFY COURT ORDERED RESTITUTION, FINES, COURT COSTS, AND
21 OTHER FEES THAT ARE LEGALLY COLLECTIBLE, THE DIVISION SHALL ESTABLISH A
22 REASONABLE FEE FOR THE COST OF ELECTRONIC MONITORING AND, EXCEPT AS
23 PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, COLLECT THE FEE FROM EACH
24 OFFENDER IN THE PROGRAM.

25 (2) IF THE DIVISION DETERMINES THAT AN OFFENDER CANNOT AFFORD
26 TO PAY THE FEE ESTABLISHED UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE
27 DIVISION MAY EXEMPT THE OFFENDER WHOLLY OR PARTLY FROM THE FEE.

28 (G) AGENCY RELATIONSHIP.

29 AN OFFENDER IN THE PROGRAM IS NOT AN AGENT OR EMPLOYEE OF THE
30 DIVISION.

31 (H) PAROLE AND PROBATION EMPLOYEES.

32 THE DIRECTOR SHALL EMPLOY PAROLE AND PROBATION EMPLOYEES TO
33 SUPERVISE OFFENDERS IN THE PROGRAM.

34 (I) REMOVAL FROM PROGRAM.

1 THE COMMISSION MAY REMOVE AN OFFENDER FROM THE PROGRAM AT ANY
2 TIME AND FOR ANY REASON.

3 (J) REGULATIONS.

4 (1) WITH THE SECRETARY'S APPROVAL, THE DIRECTOR SHALL ADOPT
5 REGULATIONS TO IMPLEMENT THE PROGRAM.

6 (2) NOTWITHSTANDING § 10-101(G)(2)(I) OF THE STATE GOVERNMENT
7 ARTICLE, THE REGULATIONS SHALL BE ADOPTED IN ACCORDANCE WITH THE
8 REQUIREMENTS OF TITLE 10, SUBTITLE 1 OF THE STATE GOVERNMENT ARTICLE.

9 REVISOR'S NOTE: This section is new language derived without substantive
10 change from former Art. 41, § 4-602A(b) through (i)(1), (k), and (l).

11 In subsection (a) of this section, the former reference to offenders "under
12 this section" is deleted as unnecessary in light of the use of the defined
13 term "offender".

14 In subsection (c) of this section, the reference to a violation "of a condition
15 of" parole or mandatory supervision is added to state expressly that which
16 was only implied in the former reference to a "violation" of parole or
17 mandatory supervision and for consistency within this subtitle.

18 Also in subsection (c) of this section, the reference to an offender who "is
19 not eligible for" the program is substituted for the former reference to an
20 offender who "may not be placed in" the program for consistency with
21 similar language used in § 3-404 of this article.

22 In the introductory language of subsection (d)(1) of this section, the former
23 reference to "prior" approval is deleted as implicit in the reference to
24 "approval".

25 In subsection (e) of this section, the reference to "living" expenses is added
26 for clarity and consistency with § 3-407(a) of this article.

27 Also in subsection (e) of this section, the reference to expenses for medical
28 "care" is added to state expressly that which was only implied in the
29 former reference to "medical".

30 The Correctional Services Article Review Committee notes, for
31 consideration by the General Assembly, that the Committee is uncertain as
32 to the meaning of the first clause of subsection (f)(1) of this section, which
33 requires that the Division "determin[e] the amount of reasonable
34 payments necessary to satisfy court ordered restitution, fines, court costs,
35 and other fees that are legally collectible". First, the Committee is
36 uncertain as to the meaning of the reference to court ordered restitution,
37 fines, court costs, and other fees that are "legally collectible". What types of
38 restitution, costs, and fees fall into the category of "legally collectible"?
39 Does the term "legally collectible" refer only to restitution, costs, and fees

1 that the Division is authorized to collect? See generally Art. 27, §§ 641B
2 and 807 and § 7-702 of this article. Does the reference to fees that are
3 "legally collectible" include court ordered payments for the support of
4 dependents under subsection (e)(2) of this section? Second, the Committee
5 is uncertain as to how the requirement that the Division "determin[e] the
6 amount of reasonable payments . . . that are legally collectible" relates to
7 the requirement in the second clause of subsection (f)(1) of this section that
8 the Division collect a fee for electronic monitoring and the requirement in
9 subsection (f)(2) of this section that the Division exempt offenders from the
10 electronic monitoring fee under certain circumstances. The Committee has
11 interpreted source law to require that the Division take into account the
12 amount it determines to be "reasonable payments necessary to satisfy
13 court ordered restitution, fines, court costs, and other fees that are legally
14 collectible" when establishing the amount of the electronic monitoring fee.
15 However, in light of the ambiguities in source law, the General Assembly
16 may wish to examine the first clause of subsection (f)(1) of this section and
17 clarify its meaning.

18 In subsection (f)(2)(i) of this section, the word "establish" is substituted for
19 the former reference to "determine" for consistency with terminology used
20 elsewhere in this article in provisions dealing with the establishment of
21 fees. See, e.g., § 3-408(b)(1) of this article.

22 In subsection (f)(2)(ii) of this section, the reference to "the fee" is
23 substituted for the former reference to "the cost of electronic monitoring"
24 for consistency with terminology used in subsection (f)(2)(i) of this section.

25 In subsection (i) of this section, the reference to removing a parolee or an
26 individual under mandatory supervision from the program "at any time
27 and for any reason" is added to state expressly that which was only implied
28 in the former law and for consistency with similar language used in §
29 3-413 of this article.

30 In subsection (j)(1) of this section, the former requirement that the
31 Director adopt "reasonable" regulations is deleted as implicit in the
32 requirements governing the adoption of regulations set forth in Title 10,
33 Subtitle 1 of the State Government Article. See, e.g., SG § 10-111.1(b).

34 Former Art. 41, § 4-602A(i)(2) is deleted as duplicative of § 6-106(a)(2) and
35 (3) of this subtitle.

36 Former Art. 41, § 4-602A(j) is deleted as duplicative of § 6-106(b) of this
37 subtitle.

38 Defined terms: "Commission" § 6-101

39 "Crime of violence" § 6-101

40 "Department" § 1-101

41 "Director" § 6-101

42 "Division" § 6-101

- 1 "Offender" § 6-101
2 "Program" § 6-101
3 "Secretary" § 1-101

4 6-109. SAME -- SEARCH OF DWELLING.

5 (A) APPLICATION FOR SEARCH WARRANT -- REQUIRED.

6 THE DIRECTOR MAY APPLY TO A JUDGE OF THE DISTRICT COURT OR A CIRCUIT
7 COURT FOR A SEARCH WARRANT TO ENTER THE APPROVED DWELLING OF AN
8 OFFENDER IN THE PROGRAM TO SEARCH FOR THE OFFENDER.

9 (B) SAME -- FORM AND CONTENTS.

10 AN APPLICATION FOR A SEARCH WARRANT SHALL:

11 (1) BE IN WRITING;

12 (2) BE VERIFIED BY THE APPLICANT; AND

13 (3) DESCRIBE THE PREMISES TO BE SEARCHED AND THE NATURE,
14 SCOPE, AND PURPOSE OF THE SEARCH.

15 (C) ISSUANCE OF WARRANT.

16 A JUDGE WHO RECEIVES AN APPLICATION FOR A SEARCH WARRANT MAY ISSUE
17 A WARRANT ON A FINDING THAT:

18 (1) THE SCOPE OF THE PROPOSED SEARCH IS REASONABLE; AND

19 (2) OBTAINING CONSENT TO ENTER THE PREMISES MAY JEOPARDIZE
20 THE ATTEMPT TO TAKE CUSTODY OF THE OFFENDER.

21 (D) SCOPE OF WARRANT.

22 (1) A SEARCH WARRANT ISSUED UNDER THIS SECTION SHALL SPECIFY
23 THE LOCATION OF THE PREMISES TO BE SEARCHED.

24 (2) A SEARCH CONDUCTED IN ACCORDANCE WITH A SEARCH WARRANT
25 ISSUED UNDER THIS SECTION MAY NOT EXCEED THE LIMITS SPECIFIED IN THE
26 WARRANT.

27 (E) EXECUTION AND RETURN.

28 A SEARCH WARRANT ISSUED UNDER THIS SECTION SHALL BE EXECUTED AND
29 RETURNED TO THE ISSUING JUDGE:

30 (1) WITHIN THE PERIOD SPECIFIED IN THE WARRANT, WHICH MAY NOT
31 EXCEED 30 DAYS FROM THE DATE OF ISSUANCE; OR

1 (2) WITHIN 15 DAYS AFTER THE WARRANT IS ISSUED, IF NO PERIOD IS
2 SPECIFIED IN THE WARRANT.

3 REVISOR'S NOTE: This section is new language derived without substantive
4 change from former Art. 41, § 4-602B.

5 In subsection (a) of this section, the former reference to "the Director's
6 designee" is deleted as included in the defined term "Director". See §
7 6-101(d) of this subtitle.

8 In the introductory language of subsection (b) of this section, the reference
9 to an application "for a search warrant" is added to state expressly that
10 which was only implied in the former reference to an "application".

11 In subsection (b)(2) of this section, the requirement that an application for
12 a search warrant be "verified" by the applicant is substituted for the
13 former requirement that an application be "signed and sworn to" by the
14 applicant for consistency with similar provisions in this and other revised
15 articles of the Code. See General Revisor's Note to this article.

16 In subsection (b)(3) of this section, the former reference to a search "to be
17 performed by the applicant" is deleted as implicit in the reference to a
18 "search".

19 In subsection (d)(2) of this section, the reference to a search conducted "in
20 accordance with a search warrant issued under this section" is added to
21 state expressly what was only implied in the former law.

22 In subsection (e)(1) of the section, the phrase "from the date of issuance" is
23 added to state expressly that which was formerly only implied in the
24 phrase "not to exceed 30 days".

25 The Correctional Services Article Review Committee notes, for
26 consideration by the General Assembly, that there is an inconsistency
27 between the use of the terms "dwelling" and "premises" in this section.
28 Under subsection (a) of this section, the Director may apply for a search
29 warrant to enter the "approved dwelling" of an inmate. Subsection (b) of
30 this section requires the applicant to describe the "premises" to be
31 searched. Subsection (c) of this section allows a judge to issue a search
32 warrant when obtaining consent to enter the "premises" may jeopardize an
33 attempt to take custody of the inmate. Subsection (d) of this section
34 requires a search warrant that is issued under this section to specify the
35 location of the "premises" to be searched. The Committee is uncertain as to
36 whether the words "dwelling" and "premises" are synonymous or,
37 alternatively, whether the word "premises" has a broader meaning. The
38 General Assembly may wish to amend this section to use either "dwelling"
39 or "premises" throughout the entire section. See also § 3-415 of this article
40 and accompanying Revisor's Note.

1 Defined terms: "Director" § 6-101

2 "Offender" § 6-101

3 "Program" § 6-101

4 6-110. VISITORIAL POWERS OF PAROLE AGENTS.

5 EACH DULY QUALIFIED PAROLE AGENT OF THE DIVISION HAS VISITORIAL
6 POWERS OVER ANY CORRECTIONAL FACILITY IN WHICH AN INMATE IS CONFINED ON
7 A CRIMINAL CHARGE, WHETHER THE CORRECTIONAL FACILITY IS OPERATED BY THE
8 STATE OR BY A COUNTY OR MUNICIPAL CORPORATION OF THE STATE.

9 REVISOR'S NOTE: This section is new language derived without substantive
10 change from the first sentence of former Art. 41, § 4-606, as it related to
11 the powers of parole agents.

12 The reference to a "municipal corporation" is substituted for the former
13 reference to a "city" to conform to Md. Constitution, Art. XI-E.

14 The Correctional Services Article Review Committee notes, for
15 consideration by the General Assembly, that the meaning of this section is
16 unclear for several reasons. The Committee is uncertain about what types
17 of employees constitute "parole agents" because "parole agent" is not a
18 defined term in this subtitle. The Committee is uncertain about how a
19 parole agent becomes "duly qualified" because there was no indication in
20 former Art. 41, § 4-606 as to the meaning of this term. Finally, the
21 Committee is uncertain about the meaning of "visitorial powers". In other
22 contexts, similar terms have been interpreted in an extremely broad
23 manner. *See, e.g., Wilson v. Board of Education*, 234 Md. 561, 565 (1963)
24 (stating that the State Board of Education has "a visitorial power of the
25 most comprehensive character"). The General Assembly may wish to
26 clarify the meaning of this section. *See also* § 7-205(c) of this article and
27 accompanying Revisor's Note.

28 Defined terms: "Correctional facility" § 1-101

29 "County" § 1-101

30 "Division" § 6-101

31 "Inmate" § 1-101

32 6-111. SUSPENDED SENTENCE; SUPERVISION.

33 IF A COURT SUSPENDS THE SENTENCE OF AN INDIVIDUAL CONVICTED OF A
34 CRIME AND ORDERS THE INDIVIDUAL TO CONTINUE UNDER THE SUPERVISION OF
35 THE DIVISION FOR A SPECIFIED TIME OR UNTIL ORDERED OTHERWISE, THE
36 DIVISION SHALL:

37 (1) SUPERVISE THE CONDUCT OF THE INDIVIDUAL;

38 (2) DETERMINE WHETHER THE INDIVIDUAL IS COMPLYING WITH THE
39 CONDITIONS OF PROBATION OR SUSPENSION OF SENTENCE; AND

1 (3) REPORT TO THE COURT ON THE INDIVIDUAL'S COMPLIANCE.

2 REVISOR'S NOTE: This section is new language derived without substantive
3 change from former Art. 41, § 4-609(a).

4 Throughout this section, the references to an "individual" are substituted
5 for the former references to a "person" because only a human being, and
6 not the other entities included in the defined term "person", can be
7 supervised by the Division. See § 1-101 of this article for the definition of
8 "person".

9 In the introductory language of this section, the reference to "orders" is
10 substituted for the former reference to "direct" for consistency within this
11 section.

12 Also in the introductory language of this section, the former reference to
13 the Division taking the specified action "when so requested by said court"
14 is deleted as unnecessary in light of the requirement that the Division take
15 the specified action "if a court ... orders the individual to continue under
16 the supervision of the Division".

17 In item (2) of this section, the former reference to "faithfully" complying
18 with the conditions of probation or suspension of sentence is deleted as
19 implicit in the reference to "complying" with those conditions.

20 Defined term: "Division" § 6-101

21 6-112. PRESENTENCE INVESTIGATION REPORT; OTHER INVESTIGATIONS AND
22 PROBATIONARY SERVICES.

23 (A) IN GENERAL.

24 (1) ON REQUEST OF A COURT, A PAROLE AND PROBATION AGENT OF THE
25 DIVISION SHALL:

26 (I) PROVIDE THE COURT WITH A PRESENTENCE INVESTIGATION
27 REPORT;

28 (II) CONDUCT OTHER INVESTIGATIONS; AND

29 (III) PERFORM OTHER PROBATIONARY SERVICES.

30 (2) EXCEPT ON COURT ORDER, A PRESENTENCE INVESTIGATION
31 REPORT IS CONFIDENTIAL AND IS NOT AVAILABLE FOR PUBLIC INSPECTION.

32 (3) ON REQUEST, A PRESENTENCE INVESTIGATION REPORT SHALL BE
33 MADE AVAILABLE TO:

34 (I) THE DEFENDANT'S ATTORNEY;

35 (II) THE STATE'S ATTORNEY;

1 (III) A CORRECTIONAL FACILITY;

2 (IV) A PAROLE, PROBATION, OR PRETRIAL RELEASE OFFICIAL OF
3 THIS STATE, ANY OTHER STATE, OR THE UNITED STATES;

4 (V) A PUBLIC OR PRIVATE MENTAL HEALTH FACILITY LOCATED IN
5 THIS STATE OR ANY OTHER STATE IF THE INDIVIDUAL WHO IS THE SUBJECT OF THE
6 REPORT HAS BEEN COMMITTED, OR IS BEING EVALUATED FOR COMMITMENT, TO
7 THE FACILITY FOR TREATMENT AS A CONDITION OF PROBATION; OR

8 (VI) A COMMUNITY SUBSTANCE ABUSE TREATMENT PROVIDER
9 LOCATED IN THIS STATE OR ANY OTHER STATE IF THE INDIVIDUAL WHO IS THE
10 SUBJECT OF THE REPORT WILL BE TREATED OR EVALUATED FOR TREATMENT BY
11 THE PROVIDER AS A CONDITION OF PROBATION.

12 (B) PRESENTENCE INVESTIGATION REPORT -- ALLOWED.

13 (1) IF A CIRCUIT COURT IS SATISFIED THAT A PRESENTENCE
14 INVESTIGATION REPORT WOULD HELP THE SENTENCING PROCESS, THE COURT MAY
15 ORDER THE DIVISION TO COMPLETE A REPORT BEFORE:

16 (I) SENTENCING A DEFENDANT WHO IS CONVICTED OF A FELONY
17 OR OF A MISDEMEANOR THAT RESULTED IN SERIOUS PHYSICAL INJURY OR DEATH
18 TO THE VICTIM TO THE JURISDICTION OF THE DIVISION OF CORRECTION; OR

19 (II) REFERRING A DEFENDANT TO THE PATUXENT INSTITUTION.

20 (2) THE PARTY THAT REQUESTS THE REPORT HAS THE BURDEN OF
21 ESTABLISHING THAT THE INVESTIGATION SHOULD BE ORDERED.

22 (3) IF REQUIRED UNDER ARTICLE 27, § 781 OF THE CODE, THE REPORT
23 SHALL INCLUDE A VICTIM IMPACT STATEMENT.

24 (C) SAME -- REQUIRED.

25 (1) THE DIVISION SHALL COMPLETE A PRESENTENCE INVESTIGATION
26 REPORT IN EACH CASE IN WHICH THE DEATH PENALTY OR IMPRISONMENT FOR LIFE
27 WITHOUT THE POSSIBILITY OF PAROLE IS REQUESTED UNDER ARTICLE 27, § 412 OF
28 THE CODE.

29 (2) THE REPORT SHALL INCLUDE A VICTIM IMPACT STATEMENT AS
30 PROVIDED UNDER ARTICLE 27, § 781 OF THE CODE.

31 (3) THE COURT OR JURY BEFORE WHICH THE SEPARATE SENTENCING
32 PROCEEDING IS CONDUCTED UNDER ARTICLE 27, § 412 OR § 413 OF THE CODE SHALL
33 CONSIDER THE REPORT.

34 REVISOR'S NOTE: This section is new language derived without substantive
35 change from former Art. 41, § 4-609(b), (c), and (d).

36 In the introductory language of subsection (a)(1) of this section, the former

- 1 reference to "the judge of" the court is deleted as unnecessary in light of
2 the reference to "a court".
- 3 In subsection (a)(1)(i), (2), and (3) of this section, the references to a
4 presentence "investigation" report are added for consistency with Art.
5 10, § 40A.
- 6 In subsection (a)(1) of this section, the former requirement that the
7 Division perform probationary services "from time to time" is deleted as
8 implicit in the requirement that the Division perform probationary
9 services "[o]n request".
- 10 In subsection (a)(3)(iv) of this section, the former reference to the "District
11 of Columbia" is deleted as included in the defined term "state". See § 1-101
12 of this article.
- 13 In subsection (a)(3)(v) of this section, the reference to a public or private
14 mental health facility "located in this State or any other state" is
15 substituted for the former reference to a public or private mental health
16 facility "in any of those jurisdictions" for clarity and accuracy.
- 17 The Correctional Services Article Review Committee notes, for
18 consideration by the General Assembly, that the list of individuals who
19 may, on request, obtain a copy of a presentence investigation report under
20 subsection (a)(3) of this section includes "the defendant's attorney", but
21 does not include "the defendant". The General Assembly may wish to
22 consider whether "the defendant", as a matter of due process, should be
23 added to this list.
- 24 In the introductory language of subsection (b)(1) of this section, the former
25 reference to the circuit court "of [a] county" is deleted as implicit in the
26 reference to the "circuit court".
- 27 In subsections (b)(1) and (c)(1) of this section, the references to a
28 presentence investigation "report" are added to state expressly that which
29 was only implied in the former references to a "presentence investigation"
30 and for consistency with subsection (a)(1)(i), (2), and (3) of this section.
- 31 Defined terms: "Correctional facility" § 1-101
- 32 "Division" § 6-101
- 33 "Division of Correction" § 1-101
- 34 "State" § 1-101

35 6-113. REPORTS BY STATE'S ATTORNEYS.

36 THE DIVISION AND THE DIVISION OF CORRECTION SHALL KEEP THE REPORT
37 SUBMITTED UNDER ARTICLE 10, § 40A ON FILE SO THAT EACH UNIT HAS AN
38 ABSTRACT OF EACH CASE FOR WHICH APPLICATION FOR PAROLE MAY BE MADE
39 UNDER THIS ARTICLE.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 41, § 4-610 as it required reports from State's
3 Attorneys to be kept on file.

4 The reference to an application for parole made under "this article" (i.e.,
5 the Correctional Services Article) is technically broader than the former
6 reference to an application for parole made under "this article" (i.e., Art.
7 41). However, no substantive change is intended.

8 Defined terms: "Division" § 6-101

9 "Division of Correction" § 1-101

10 6-114. CITIZENS' SUPPORT UNIT.

11 (A) ESTABLISHMENT AUTHORIZED.

12 THE DIVISION MAY ESTABLISH A CITIZENS' SUPPORT UNIT TO BE KNOWN AS
13 "GUIDE", WHICH STANDS FOR: GIVE UNDERSTANDING, INSPIRATION, DIRECTION,
14 AND ENCOURAGEMENT.

15 (B) MEMBERSHIP.

16 THE UNIT SHALL CONSIST OF RESIDENTS OF THE STATE WHO VOLUNTEER
17 THEIR TIME AND SERVICES TO AID IN THE EDUCATION AND COUNSELING OF
18 PAROLEES AND PROBATIONERS.

19 REVISOR'S NOTE: This section is new language derived without substantive
20 change from former Art. 41, § 4-1105.

21 In subsection (b) of this section, the reference to "residents of the State" is
22 substituted for the former reference to "citizens" for clarity because the
23 meaning of the term "citizen" is unclear. See General Revisor's Note to this
24 article.

25 Defined terms: "Division" § 6-101

26 "Parolee" § 6-101

27 GENERAL REVISOR'S NOTE TO SUBTITLE:

28 Former Art. 41, § 4-105(b), which provided for the reorganization of the former
29 Department of Parole and Probation as the Division of Parole and Probation effective
30 July 1, 1970, is apparently obsolete. However, to avoid any inadvertent substantive
31 effect its repeal might have, it is transferred to the Session Laws.

32 The part of former Art. 41, § 4-610 that required the State's Attorneys to make
33 and transmit to the Division of Parole and Probation and the Division of Correction a
34 resume of facts and evidence for certain types of cases is revised in Art. 10, § 40A.

1 Former Art. 41, § 4-613, which provided for the severability of the provisions of
2 former Art. 41, §§ 4-601 through 4-613, is deleted as unnecessary in light of Art. 1, §
3 23 of the Code.

4 SUBTITLE 2. UNIFORM ACT FOR OUT-OF-STATE PAROLEE SUPERVISION.

5 6-201. PREAMBLE.

6 THE GOVERNOR OF THIS STATE IS HEREBY AUTHORIZED AND DIRECTED TO
7 EXECUTE A COMPACT ON BEHALF OF THIS STATE WITH ANY OF THE UNITED STATES
8 LEGALLY JOINING IN THE COMPACT IN THE FORM SUBSTANTIALLY AS FOLLOWS.

9 REVISOR'S NOTE: This section is new language derived without substantive
10 change from the first unnumbered paragraph of the introductory language
11 of former Art. 41, § 4-801.

12 As to the general policy of the Correctional Services Article Review
13 Committee concerning changes to interstate compacts, see General
14 Revisor's Note to this subtitle.

15 6-202. CONSENT OF CONGRESS.

16 A COMPACT ENTERED INTO BY AND AMONG THE CONTRACTING STATES,
17 SIGNATORIES HERETO, WITH THE CONSENT OF THE CONGRESS OF THE UNITED
18 STATES OF AMERICA, GRANTED BY AN ACT ENTITLED "AN ACT GRANTING THE
19 CONSENT OF CONGRESS TO ANY TWO OR MORE STATES TO ENTER INTO
20 AGREEMENTS OR COMPACTS FOR COOPERATIVE EFFORT AND MUTUAL ASSISTANCE
21 IN THE PREVENTION OF CRIME AND FOR OTHER PURPOSES".

22 REVISOR'S NOTE: This section formerly was the second unnumbered
23 paragraph of the introductory language of Art. 41, § 4-801.

24 No changes are made.

25 6-203. CONTENT OF COMPACT.

26 (A) AGREEMENT.

27 THE CONTRACTING STATES SOLEMNLY AGREE THAT:

28 (B) RESIDENCE IN RECEIVING STATE.

29 IT SHALL BE COMPETENT FOR THE DULY CONSTITUTED JUDICIAL AND
30 ADMINISTRATIVE AUTHORITIES OF A STATE PARTY TO THIS COMPACT (HEREIN
31 CALLED "SENDING STATE"), TO PERMIT ANY PERSON CONVICTED OF AN OFFENSE
32 WITHIN THE SENDING STATE AND PLACED ON PROBATION OR RELEASED ON PAROLE
33 TO RESIDE IN ANY OTHER STATE PARTY TO THIS COMPACT (HEREIN CALLED
34 "RECEIVING STATE"), WHILE ON PROBATION OR PAROLE, IF:

1 (1) THE PERSON IS IN FACT A RESIDENT OF OR HAS FAMILY RESIDING
2 WITHIN THE RECEIVING STATE AND CAN OBTAIN EMPLOYMENT THERE;

3 (2) THOUGH NOT A RESIDENT OF THE RECEIVING STATE AND NOT
4 HAVING FAMILY RESIDING THERE, THE RECEIVING STATE CONSENTS TO THE
5 PERSON BEING SENT THERE.

6 (C) INVESTIGATION BY RECEIVING STATE.

7 BEFORE GRANTING PERMISSION AS AUTHORIZED UNDER SUBSECTION (B) OF
8 THIS SECTION, OPPORTUNITY SHALL BE GRANTED TO THE RECEIVING STATE TO
9 INVESTIGATE THE HOME AND PROSPECTIVE EMPLOYMENT OF THE PERSON.

10 (D) "RESIDENT OF RECEIVING STATE" DEFINED.

11 A RESIDENT OF THE RECEIVING STATE, WITHIN THE MEANING OF THIS
12 SECTION, IS A PERSON WHO HAS BEEN AN ACTUAL INHABITANT OF THE RECEIVING
13 STATE CONTINUOUSLY FOR MORE THAN ONE YEAR PRIOR TO COMING TO THE
14 SENDING STATE AND HAS NOT RESIDED WITHIN THE SENDING STATE MORE THAN
15 SIX CONTINUOUS MONTHS IMMEDIATELY PRECEDING THE COMMISSION OF THE
16 OFFENSE FOR WHICH THE PERSON HAS BEEN CONVICTED.

17 (E) DUTIES OF RECEIVING STATE.

18 EACH RECEIVING STATE WILL ASSUME THE DUTIES OF VISITATION OF AND
19 SUPERVISION OVER PROBATIONERS OR PAROLEES OF ANY SENDING STATE AND IN
20 THE EXERCISE OF THOSE DUTIES WILL BE GOVERNED BY THE SAME STANDARDS
21 THAT PREVAIL FOR ITS OWN PROBATIONERS AND PAROLEES.

22 (F) AUTHORITY OF SENDING STATE.

23 DULY ACCREDITED OFFICERS OF A SENDING STATE MAY AT ALL TIMES ENTER
24 A RECEIVING STATE AND THERE APPREHEND AND RETAKE ANY PERSON ON
25 PROBATION OR PAROLE. FOR THAT PURPOSE NO FORMALITIES WILL BE REQUIRED
26 OTHER THAN ESTABLISHING THE AUTHORITY OF THE OFFICER AND THE IDENTITY
27 OF THE PERSON TO BE RETAKEN. ALL LEGAL REQUIREMENTS TO OBTAIN
28 EXTRADITION OF FUGITIVES FROM JUSTICE ARE HEREBY EXPRESSLY WAIVED ON
29 THE PART OF STATES PARTY HERETO AS TO THESE PERSONS. THE DECISION OF THE
30 SENDING STATE TO RETAKE A PERSON ON PROBATION OR PAROLE SHALL BE
31 CONCLUSIVE UPON AND NOT REVIEWABLE WITHIN THE RECEIVING STATE;
32 PROVIDED, HOWEVER, THAT IF AT THE TIME WHEN A STATE SEEKS TO RETAKE A
33 PROBATIONER OR PAROLEE THERE SHOULD BE PENDING AGAINST THE
34 PROBATIONER OR PAROLEE WITHIN THE RECEIVING STATE ANY CRIMINAL CHARGE,
35 OR THE PAROLEE OR PROBATIONER SHOULD BE SUSPECTED OF HAVING COMMITTED
36 WITHIN THE RECEIVING STATE A CRIMINAL OFFENSE THE PAROLEE OR
37 PROBATIONER SHALL NOT BE RETAKEN WITHOUT THE CONSENT OF THE RECEIVING
38 STATE UNTIL DISCHARGED FROM PROSECUTION OR FROM IMPRISONMENT FOR THE
39 OFFENSE.

40 (G) INTERSTATE TRANSIT OF RETAKEN PRISONERS.

1 THE DULY ACCREDITED OFFICERS OF THE SENDING STATE WILL BE
2 PERMITTED TO TRANSPORT PRISONERS BEING RETAKEN THROUGH ANY AND ALL
3 STATES PARTIES TO THIS COMPACT, WITHOUT INTERFERENCE.

4 (H) RULES AND REGULATIONS.

5 THE GOVERNOR OF EACH STATE MAY DESIGNATE AN OFFICER WHO, ACTING
6 JOINTLY WITH LIKE OFFICERS OF OTHER CONTRACTING STATES, IF AND WHEN
7 APPOINTED, SHALL PROMULGATE RULES AND REGULATIONS AS MAY BE DEEMED
8 NECESSARY TO MORE EFFECTIVELY CARRY OUT THE TERMS OF THIS COMPACT.

9 (I) EXECUTION OF COMPACT.

10 THIS COMPACT SHALL BECOME OPERATIVE IMMEDIATELY UPON ITS
11 EXECUTION BY ANY STATE AS BETWEEN IT AND ANY OTHER STATE OR STATES SO
12 EXECUTING. WHEN EXECUTED IT SHALL HAVE THE FULL FORCE AND EFFECT OF
13 LAW WITHIN THE EXECUTING STATE, THE FORM OF EXECUTION TO BE IN
14 ACCORDANCE WITH THE LAWS OF THE EXECUTING STATE.

15 (J) RENUNCIATION OF COMPACT.

16 THIS COMPACT SHALL CONTINUE IN FORCE AND REMAIN BINDING UPON EACH
17 EXECUTING STATE UNTIL RENOUNCED BY IT. THE DUTIES AND OBLIGATIONS
18 HEREUNDER OF A RENOUNCING STATE SHALL CONTINUE AS TO PAROLEES OR
19 PROBATIONERS RESIDING THEREIN AT THE TIME OF WITHDRAWAL UNTIL RETAKEN
20 OR FINALLY DISCHARGED BY THE SENDING STATE. RENUNCIATION OF THIS
21 COMPACT SHALL BE BY THE SAME AUTHORITY WHICH EXECUTED IT, BY SENDING
22 SIX MONTHS' NOTICE IN WRITING OF ITS INTENTION TO WITHDRAW FROM THE
23 COMPACT TO THE OTHER STATES PARTY HERETO.

24 REVISOR'S NOTE: This section formerly was numbered paragraphs (1)
25 through (7) of Art. 41, § 4-801.

26 In subsections (b), (d), and (f) of this section, gender neutral terms are
27 substituted for the former pronouns "his", "he", and "him" because SG §
28 2-1238 requires use of words that are "neutral as to gender".

29 The only other changes are in style.

30 Defined terms: "Person" § 1-101

31 "State" § 1-101

32 6-204. SEVERABILITY.

33 IF ANY SUBSECTION, SENTENCE, SUBDIVISION, OR CLAUSE OF §§ 6-201
34 THROUGH 6-203 OF THIS SUBTITLE IS FOR ANY REASON HELD INVALID OR TO BE
35 UNCONSTITUTIONAL, THAT DECISION SHALL NOT AFFECT THE VALIDITY OF THE
36 REMAINING PORTIONS OF §§ 6-201 THROUGH 6-203 OF THIS SUBTITLE.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 41, § 4-802.

3 6-205. SHORT TITLE.

4 THIS SUBTITLE MAY BE CITED AS THE UNIFORM ACT FOR OUT-OF-STATE
5 PAROLEE SUPERVISION.

6 REVISOR'S NOTE: This section is new language derived without substantive
7 change from former Art. 41, § 4-803.

8 No changes are made.

9 GENERAL REVISOR'S NOTE TO SUBTITLE:

10 In revising the various articles of the Annotated Code, it was the usual practice
11 of the former Commission to Revise the Annotated Code and article review
12 committees to make very few, if any, changes to interstate compacts. The Correctional
13 Services Article Review Committee has made only minor technical and stylistic
14 changes to the Uniform Act for Out-of-State Parolee Supervision, which comprises
15 this subtitle. These changes include making minor changes to conform with current
16 drafting conventions and deleting pronouns that are not neutral as to gender. These
17 changes do not affect the substance of the Compact.

18 TITLE 7. PAROLE, RELEASE ON MANDATORY SUPERVISION, AND EXECUTIVE
19 CLEMENCY.

20 SUBTITLE 1. DEFINITIONS; GENERAL PROVISIONS.

21 7-101. DEFINITIONS.

22 (A) IN GENERAL.

23 IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

24 REVISOR'S NOTE: This subsection is new language substituted as standard
25 language for the introductory language of former Art. 41, § 4-501.

26 (B) COMMISSION.

27 "COMMISSION" MEANS THE MARYLAND PAROLE COMMISSION.

28 REVISOR'S NOTE: This subsection formerly was Art. 41, § 4-501(8).

29 No changes are made.

30 (C) COMMISSIONER.

31 "COMMISSIONER" MEANS A MEMBER OF THE MARYLAND PAROLE COMMISSION.

1 REVISOR'S NOTE: This subsection is new language added to avoid repetition of
2 the phrase "a member of the Maryland Parole Commission".

3 (D) COMMUTATION OF SENTENCE.

4 "COMMUTATION OF SENTENCE" MEANS AN ACT OF CLEMENCY IN WHICH THE
5 GOVERNOR, BY ORDER, SUBSTITUTES A LESSER PENALTY FOR THE GRANTEE'S
6 OFFENSE FOR THE PENALTY IMPOSED BY THE COURT IN WHICH THE GRANTEE WAS
7 CONVICTED.

8 REVISOR'S NOTE: This subsection is new language derived without
9 substantive change from the first and last clauses of the first sentence of
10 former Art. 41, § 4-501(4).

11 The reference to an act of clemency by the "Governor" is added to state
12 expressly that which was only implied in the former law.

13 (E) CONDITIONAL COMMUTATION OF SENTENCE.

14 "CONDITIONAL COMMUTATION OF SENTENCE" MEANS A COMMUTATION OF
15 SENTENCE THAT IS DEPENDENT ON COMPLIANCE WITH CONDITIONS PRECEDENT
16 OR SUBSEQUENT THAT THE GOVERNOR SPECIFIES IN THE WRITTEN ORDER
17 GRANTING THE COMMUTATION.

18 REVISOR'S NOTE: This subsection is new language derived without
19 substantive change from the second sentence of former Art. 41, § 4-501(4).

20 The former phrase "[a] commutation may be absolute or made to depend
21 for its effectiveness" is deleted as implicit in the definitions of
22 "commutation of sentence" and "conditional commutation of sentence". See
23 subsection (d) of this section for the definition of "commutation of
24 sentence".

25 Defined term: "Commutation of sentence" § 7-101

26 (F) CONDITIONAL PARDON.

27 "CONDITIONAL PARDON" MEANS A PARDON THAT IS DEPENDENT ON
28 COMPLIANCE WITH CONDITIONS PRECEDENT OR SUBSEQUENT THAT THE
29 GOVERNOR SPECIFIES IN THE WRITTEN ORDER GRANTING THE PARDON.

30 REVISOR'S NOTE: This subsection is new language derived without
31 substantive change from the first sentence of former Art. 41, § 4-501(3).

32 The reference to a pardon "that" is dependent on compliance with
33 conditions is substituted for the former reference to a pardon "the legal
34 operation of which" is dependent on compliance with conditions for brevity.

35 The reference to "compliance with" conditions is substituted for the former
36 reference to "the performance of" conditions for consistency with

1 subsection (e) of this section.

2 The former reference to an "act of clemency" is deleted as included in the
3 defined term "pardon".

4 Defined term: "Pardon" § 7-101

5 (G) MANDATORY SUPERVISION.

6 (1) "MANDATORY SUPERVISION" MEANS A CONDITIONAL RELEASE
7 FROM CONFINEMENT THAT IS GRANTED TO AN INMATE UNDER § 7-501 OF THIS
8 TITLE.

9 (2) "MANDATORY SUPERVISION" INCLUDES A CONDITIONAL RELEASE
10 GRANTED BEFORE JULY 1, 1989 THAT WAS REFERRED TO AS "MANDATORY RELEASE".

11 REVISOR'S NOTE: This subsection is new language derived without
12 substantive change from former Art. 41, § 4-501(13).

13 In paragraph (1) of this subsection, the reference to "confinement" is
14 substituted for the former reference to "imprisonment" for consistency
15 throughout this article. See General Revisor's Note to this article.

16 Defined term: "Inmate" § 1-101

17 (H) PARDON.

18 "PARDON" MEANS AN ACT OF CLEMENCY IN WHICH THE GOVERNOR, BY ORDER,
19 ABSOLVES THE GRANTEE FROM THE GUILT OF THE GRANTEE'S CRIMINAL ACTS AND
20 EXEMPTS THE GRANTEE FROM ANY PENALTIES IMPOSED BY LAW FOR THOSE
21 CRIMINAL ACTS.

22 REVISOR'S NOTE: This subsection is new language derived without
23 substantive change from the first and last clauses of the first sentence of
24 former Art. 41, § 4-501(1).

25 The reference to an act of clemency by the "Governor" is added to state
26 expressly that which was only implied in the former law.

27 The reference to an act of clemency in which the Governor "by order"
28 absolves the grantee from any penalties is added for consistency with
29 subsection (d) of this section and § 7-601(b) of this title.

30 The former reference to "pains" imposed by law is deleted as included in
31 the reference to "penalties".

32 (I) PAROLE.

33 "PAROLE" MEANS A CONDITIONAL RELEASE FROM CONFINEMENT GRANTED BY
34 THE COMMISSION TO AN INMATE.

1 REVISOR'S NOTE: This subsection is new language derived without
2 substantive change from the first sentence of former Art. 41, § 4-501(5).

3 The reference to "confinement" is substituted for the former reference to
4 "imprisonment" for consistency throughout this article. See General
5 Revisor's Note to this article.

6 The former reference to a release that is granted to "any of certain classes
7 of prisoners" is deleted as unnecessary in light of the reference to a release
8 that is granted "by the Commission to an inmate".

9 Defined terms: "Commission" § 7-101

10 "Inmate" § 1-101

11 (J) PAROLEE.

12 "PAROLEE" MEANS AN INMATE WHO HAS BEEN RELEASED ON PAROLE.

13 REVISOR'S NOTE: This subsection is new language added to avoid repetition
14 of the phrase "an individual who has been released on parole".

15 Defined terms: "Inmate" § 1-101

16 "Parole" § 7-101

17 (K) PARTIAL PARDON.

18 "PARTIAL PARDON" MEANS A PARDON THAT HAS BEEN LIMITED BY THE TERMS
19 OF THE ORDER GRANTING THE PARDON TO BE OF LESS EFFECT THAN A FULL
20 PARDON.

21 REVISOR'S NOTE: This subsection is new language derived without
22 substantive change from the first clause of former Art. 41, § 4-501(2).

23 The former reference to an "act of clemency" is deleted as included in the
24 defined term "pardon".

25 Defined term: "Pardon" § 7-101

26 (L) PREDETERMINED PAROLE RELEASE AGREEMENT.

27 "PREDETERMINED PAROLE RELEASE AGREEMENT" MEANS AN AGREEMENT
28 AMONG THE COMMISSIONER OF CORRECTION, THE COMMISSION, AND AN INMATE
29 FOR THE PAROLE OF THE INMATE AT A PREDETERMINED TIME IF, DURING THE
30 INMATE'S TERM OF CONFINEMENT, THE INMATE FULFILLS THE CONDITIONS
31 SPECIFIED IN THE AGREEMENT.

32 REVISOR'S NOTE: This subsection is new language derived without
33 substantive change from former Art. 27, § 700G(a) and former Art. 41, §
34 4-501(7).

35 The reference to a "term" of confinement is substituted for the former

1 reference to a "period" of confinement for consistency throughout this
2 article. See General Revisor's Note to this article.

3 Defined terms: "Commission" § 7-101

4 "Commissioner of Correction" § 1-101

5 "Inmate" § 1-101

6 "Parole" § 7-101

7 (M) VIOLENT CRIME.

8 "VIOLENT CRIME" MEANS:

9 (1) A CRIME OF VIOLENCE AS DEFINED IN ARTICLE 27, § 643B OF THE
10 CODE; OR

11 (2) BURGLARY IN THE FIRST, SECOND, OR THIRD DEGREE.

12 REVISOR'S NOTE: This subsection is new language derived without
13 substantive change from former Art. 41, § 4-501(12).

14 REVISOR'S NOTE TO SECTION:

15 Former Art. 41, § 4-501(6), which defined "probation", is deleted as
16 unnecessary because the word "probation" appeared only twice in the
17 source law for this title in references to restitution ordered by a court as a
18 condition of probation. See §§ 7-501(b) and 7-701(a) of this title.

19 Former Art. 41, § 4-501(9), which defined "Commissioner" to mean the
20 Commissioner of Correction, is deleted to avoid confusion with references
21 to parole commissioners. References to the Commissioner of Correction
22 appear only a few times in this title and the full title "Commissioner of
23 Correction" is used in each case. See § 1-101 of this article for the
24 definition of "Commissioner of Correction".

25 7-102. SCOPE OF TITLE.

26 THIS TITLE DOES NOT APPLY TO:

27 (1) AN INMATE RETAINED IN THE CUSTODY OF PATUXENT INSTITUTION
28 FOR:

29 (I) EXAMINATION TO DETERMINE IF THE INMATE IS AN ELIGIBLE
30 PERSON, AS DEFINED IN § 4-101 OF THIS ARTICLE; OR

31 (II) CONFINEMENT AS AN ELIGIBLE PERSON UNDER TITLE 4 OF
32 THIS ARTICLE; OR

33 (2) A JUVENILE COMMITTED TO THE JURISDICTION OF THE
34 DEPARTMENT OF JUVENILE JUSTICE OR AN INSTITUTION OR FACILITY UNDER ITS
35 JURISDICTION.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 41, § 4-611 as it related to the scope of former Art.
3 41, Title 4, Subtitle 5.

4 In the introductory language of this section, the former phrase "[e]xcept for
5 the provision of § 4-516(d)(3) of this title" is deleted for consistency with §
6 7-301(d)(4) of this article. The part of former Art. 41, § 4-611 that is
7 revised in this section included an incorrect cross-reference to former Art.
8 41, § 4-516(d)(3), which is revised in § 7-301(d)(3) of this title. The correct
9 cross-reference would have been to former Art. 41, § 516(d)(4), which is
10 revised in § 7-301(d)(4) of this title. This section does not include a
11 cross-reference to § 7-301(d)(4) because the relevant part of former Art.
12 41, § 4-516(d)(4) is deleted in this revision. See § 7-301(d)(4) of this article
13 and accompanying Revisor's Note.

14 Also in the introductory language of this section, the phrase "apply to" is
15 substituted for the former phrase "extend to or affect" for brevity.

16 In item (1)(i) of this section, the reference to an examination to determine
17 "if the inmate is an eligible person, as defined in § 4-101 of this article" is
18 added to state expressly that which was only implied in the former
19 reference to an examination to determine "eligibility".

20 In item (1)(ii) of this section, the reference to confinement as an eligible
21 person "under Title 4 of this article" is added to state expressly that which
22 was only implied in the former reference to "confinement as an eligible
23 person".

24 Defined terms: "Inmate" § 1-101

25 "Mandatory supervision" § 7-101

26 "Parolee" § 7-101

27 SUBTITLE 2. MARYLAND PAROLE COMMISSION.

28 7-201. ESTABLISHED.

29 THERE IS A MARYLAND PAROLE COMMISSION IN THE DEPARTMENT.

30 REVISOR'S NOTE: This section formerly was Art. 41, § 4-502(a).

31 No changes are made.

32 Defined term: "Department" § 1-101

33 7-202. MEMBERSHIP.

34 (A) COMPOSITION; APPOINTMENT OF MEMBERS.

35 (1) THE COMMISSION CONSISTS OF EIGHT MEMBERS.

1 (2) WITH THE APPROVAL OF THE GOVERNOR AND THE ADVICE AND
2 CONSENT OF THE SENATE, THE SECRETARY SHALL APPOINT THE MEMBERS OF THE
3 COMMISSION.

4 (B) QUALIFICATIONS OF COMMISSIONERS.

5 EACH COMMISSIONER SHALL:

6 (1) BE APPOINTED WITHOUT REGARD TO POLITICAL AFFILIATION;

7 (2) BE A RESIDENT OF THE STATE; AND

8 (3) HAVE TRAINING AND EXPERIENCE IN LAW, SOCIOLOGY,
9 PSYCHOLOGY, PSYCHIATRY, EDUCATION, SOCIAL WORK, OR CRIMINOLOGY.

10 (C) FULL-TIME DUTIES.

11 EACH COMMISSIONER:

12 (1) SHALL DEVOTE FULL TIME TO THE DUTIES OF THE COMMISSION;
13 AND

14 (2) MAY NOT HAVE ANY OTHER EMPLOYMENT THAT CONFLICTS WITH
15 THE COMMISSIONER'S DEVOTION OF FULL TIME TO THE DUTIES OF THE
16 COMMISSION.

17 (D) TERMS; APPOINTMENT OF SUCCESSORS.

18 (1) THE TERM OF A COMMISSIONER IS 6 YEARS.

19 (2) AT THE END OF A TERM, A COMMISSIONER CONTINUES TO SERVE
20 UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

21 (3) A COMMISSIONER WHO IS APPOINTED AFTER A TERM HAS BEGUN
22 SERVES ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED
23 AND QUALIFIES.

24 (E) REMOVAL.

25 (1) WITH THE APPROVAL OF THE GOVERNOR, THE SECRETARY MAY
26 REMOVE A COMMISSIONER FOR DISABILITY, NEGLECT OF DUTY, OR MISCONDUCT IN
27 OFFICE.

28 (2) BEFORE REMOVING A COMMISSIONER, THE SECRETARY SHALL:

29 (I) GIVE THE COMMISSIONER WRITTEN NOTICE OF THE CHARGES
30 AGAINST THE COMMISSIONER; AND

31 (II) HOLD A PUBLIC HEARING ON THE CHARGES.

32 (F) APPOINTMENT OF HEARING EXAMINER.

1 (1) IF A COMMISSIONER IS UNABLE TO PERFORM THE COMMISSIONER'S
2 DUTIES BECAUSE OF SICKNESS, INCAPACITY, OR DISQUALIFICATION, THE
3 SECRETARY MAY APPOINT A HEARING EXAMINER TO THE COMMISSION TO PERFORM
4 THOSE DUTIES UNTIL THAT COMMISSIONER IS ABLE TO RESUME THOSE DUTIES OR
5 UNTIL A NEW COMMISSIONER IS APPOINTED AND QUALIFIES.

6 (2) A HEARING EXAMINER APPOINTED UNDER THIS SUBSECTION IS
7 ENTITLED TO THE SAME COMPENSATION AS A COMMISSIONER.

8 (3) A HEARING EXAMINER APPOINTED UNDER THIS SUBSECTION MAY
9 NOT PARTICIPATE IN A PROCEEDING BEFORE THE COMMISSION IN WHICH THE
10 HEARING EXAMINER PARTICIPATED AS A HEARING EXAMINER.

11 (G) CHAIRPERSON.

12 WITH THE APPROVAL OF THE GOVERNOR, THE SECRETARY SHALL DESIGNATE A
13 CHAIRPERSON OF THE COMMISSION FROM AMONG ITS MEMBERS.

14 REVISOR'S NOTE: This section is new language derived without substantive
15 change from former Art. 41, § 4-502(b), (c), and (d).

16 In subsection (d)(2) of this section, the reference to serving until a
17 successor is "appointed" and qualifies is added to state expressly that
18 which was only implied in the former law.

19 In subsection (d)(3) of this section, the reference to serving "until a
20 successor is appointed and qualifies" is standard language added to avoid
21 gaps in membership by indicating that a member serves until a successor
22 takes office. This addition is supported by the holdings in Benson v. Mellor,
23 152 Md. 481 (1927) and Grooms v. LaVale Zoning Board, 27 Md. App. 266
24 (1975).

25 In subsection (f)(3) of this section, the reference to a "proceeding" is
26 substituted for the former reference to a "case" to clarify that a hearing
27 examiner is not forever barred from sitting as a commissioner in a case in
28 which the hearing examiner previously participated as a hearing
29 examiner. The Correctional Services Article Review Committee assumed
30 that a hearing examiner is prohibited from sitting as a commissioner in a
31 proceeding before the Commission involving a review of that particular
32 hearing examiner's decision to grant or deny parole to an inmate but is not
33 prohibited from sitting as a commissioner in a proceeding before the
34 Commission involving a review of another hearing examiner's subsequent
35 decision to grant or deny parole to the same inmate. If the General
36 Assembly intended that subsection (f)(3) be interpreted in a different way,
37 it should be amended to clearly reflect that intent.

38 Also in subsection (f)(3) of this section, the prohibition against a hearing
39 examiner participating in a proceeding "before the Commission" is added
40 to state expressly that which was only implied in the former law. A hearing
41 examiner who sits as a commissioner is prohibited from participating in a

1 proceeding "before the Commission" in which the hearing examiner
2 participated as a hearing examiner. However, the hearing examiner is not
3 prohibited from handling matters relating to the inmate's case after
4 resuming duties as a hearing examiner.

5 Defined terms: "Commission" § 7-101

6 "Commissioner" § 7-101

7 "Secretary" § 1-101

8 7-203. COMPENSATION AND REIMBURSEMENT FOR EXPENSES.

9 (A) IN GENERAL.

10 EACH COMMISSIONER IS ENTITLED TO:

11 (1) COMPENSATION IN ACCORDANCE WITH THE STATE BUDGET; AND

12 (2) REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE
13 TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

14 (B) INCREASE IN COMPENSATION.

15 THE GENERAL ASSEMBLY MAY PROVIDE FOR AN INCREASE IN THE
16 COMPENSATION OF COMMISSIONERS DURING THEIR TERMS IN THE SAME
17 PROPORTION AS ANY AVERAGE COMPENSATION INCREASE AWARDED TO STATE
18 EMPLOYEES GENERALLY.

19 REVISOR'S NOTE: This section is new language derived without substantive
20 change from former Art. 41, § 4-502(e).

21 In subsections (a)(1) and (b) of this section, the references to
22 "compensation" are substituted as standard language for the former
23 references to "annual salary" and "salary". See General Revisor's Note to
24 this article.

25 In subsection (a)(2) of this section, the phrase "under the Standard State
26 Travel Regulations" is substituted as standard language for the former
27 phrase "incurred in the actual performance of his duties".

28 Defined term: "Commissioner" § 7-101

29 7-204. STAFF; HEARING EXAMINERS.

30 (A) STAFF.

31 (1) THE COMMISSION SHALL APPOINT THE STAFF NECESSARY TO
32 PERFORM THE DUTIES OF THE COMMISSION.

33 (2) THE ACTIVITIES OF THE STAFF MAY NOT DUPLICATE OR CONFLICT
34 WITH THE FUNCTIONS AND SERVICES OF THE DIVISION OF PAROLE AND PROBATION.

1 (3) EXCEPT AS OTHERWISE PROVIDED BY LAW, THE STAFF IS SUBJECT
 2 TO THE PROVISIONS OF TITLE 6, SUBTITLE 4 OF THE STATE PERSONNEL AND
 3 PENSIONS ARTICLE.

4 (B) HEARING EXAMINERS.

5 (1) (I) THE SECRETARY MAY APPOINT THE HEARING EXAMINERS
 6 NECESSARY TO CONDUCT PAROLE RELEASE HEARINGS UNDER PARAGRAPH (2) OF
 7 THIS SUBSECTION, AS PROVIDED IN THE STATE BUDGET.

8 (II) EACH HEARING EXAMINER SHALL:

9 1. BE APPOINTED WITHOUT REGARD TO POLITICAL
 10 AFFILIATION;

11 2. BE A RESIDENT OF THE STATE; AND

12 3. HAVE TRAINING AND EXPERIENCE IN LAW, SOCIOLOGY,
 13 PSYCHOLOGY, PSYCHIATRY, EDUCATION, SOCIAL WORK, OR CRIMINOLOGY.

14 (III) A HEARING EXAMINER IS ENTITLED TO COMPENSATION IN
 15 ACCORDANCE WITH THE STATE BUDGET.

16 (2) A HEARING EXAMINER OR A COMMISSIONER ACTING AS A HEARING
 17 EXAMINER MAY HEAR CASES FOR PAROLE RELEASE THAT ARE NOT REQUIRED TO BE
 18 HEARD BY THE COMMISSION UNDER § 7-205(A)(3) OF THIS SUBTITLE.

19 REVISOR'S NOTE: This section is new language derived without substantive
 20 change from former Art. 41, §§ 4-503 and 4-504(c).

21 In subsection (b)(1) of this section, the reference to "paragraph (2) of this
 22 subsection" is technically narrower than the reference in former Art. 41, §
 23 4-503(b)(1) to "§ 4-504 of this subtitle" because only former Art. 41, §
 24 4-504(c) is revised in paragraph (2) of this subsection. However, subsection
 25 (c) of former Art. 41, § 4-504 is the only part of that section that related to
 26 parole release hearings conducted by hearing examiners. No substantive
 27 change is intended.

28 Defined terms: "Commission" § 7-101

29 "Commissioner" § 7-101

30 "Division of Parole and Probation" § 1-101

31 "Parole" § 7-101

32 "Secretary" § 1-101

33 7-205. POWERS.

34 (A) EXCLUSIVE POWERS OF COMMISSION.

35 THE COMMISSION HAS THE EXCLUSIVE POWER TO:

1 (1) AUTHORIZE THE PAROLE OF AN INDIVIDUAL SENTENCED UNDER
2 THE LAWS OF THE STATE TO ANY CORRECTIONAL FACILITY IN THE STATE;

3 (2) NEGOTIATE, ENTER INTO, AND SIGN PREDETERMINED PAROLE
4 RELEASE AGREEMENTS AS PROVIDED UNDER SUBSECTION (B) OF THIS SECTION;

5 (3) HEAR CASES FOR PAROLE IN WHICH:

6 (I) THE COMMISSIONER OF CORRECTION, AFTER REVIEWING THE
7 RECOMMENDATION OF THE APPROPRIATE MANAGING OFFICIAL, OBJECTS TO A
8 PAROLE;

9 (II) THE INMATE WAS CONVICTED OF A HOMICIDE; OR

10 (III) THE INMATE IS SERVING A SENTENCE OF LIFE IMPRISONMENT;

11 (4) HEAR EXCEPTIONS TO RECOMMENDATIONS OF A HEARING
12 EXAMINER OR A COMMISSIONER ACTING AS A HEARING EXAMINER;

13 (5) REVIEW SUMMARILY ALL RECOMMENDATIONS OF A HEARING
14 EXAMINER OR A COMMISSIONER ACTING AS A HEARING EXAMINER TO WHICH AN
15 EXCEPTION HAS NOT BEEN FILED;

16 (6) HEAR A CASE FOR PAROLE IN ABSENTIA WHEN AN INDIVIDUAL WHO
17 WAS SENTENCED IN THIS STATE TO SERVE A TERM OF IMPRISONMENT IS IN A
18 CORRECTIONAL FACILITY OF A JURISDICTION OTHER THAN THIS STATE;

19 (7) HEAR CASES OF PAROLE SUSPENSION OR REVOCATION; AND

20 (8) IF DELEGATED BY THE GOVERNOR, HEAR CASES INVOLVING AN
21 ALLEGED VIOLATION OF A CONDITIONAL PARDON.

22 (B) PREDETERMINED PAROLE RELEASE AGREEMENTS.

23 (1) (I) THE COMMISSION MAY NEGOTIATE, ENTER INTO, AND SIGN A
24 PREDETERMINED PAROLE RELEASE AGREEMENT WITH THE COMMISSIONER OF
25 CORRECTION AND AN INMATE UNDER THE JURISDICTION OF THE COMMISSION.

26 (II) THE AGREEMENT MAY PROVIDE FOR THE RELEASE OF THE
27 INMATE ON PAROLE AT A PREDETERMINED TIME IF, DURING THE INMATE'S TERM OF
28 CONFINEMENT, THE INMATE PARTICIPATES IN THE PROGRAMS DESIGNATED BY THE
29 COMMISSION AND FULFILLS ANY OTHER CONDITIONS SPECIFIED IN THE
30 AGREEMENT.

31 (2) THIS SUBSECTION DOES NOT AFFECT ANY DIMINUTION OF AN
32 INMATE'S TERM OF CONFINEMENT AWARDED UNDER TITLE 3, SUBTITLE 7 AND §§
33 9-506 AND 9-513 OF THIS ARTICLE.

34 (C) VISITORIAL POWERS.

1 EACH COMMISSIONER HAS VISITORIAL POWERS OVER ANY CORRECTIONAL
2 FACILITY IN WHICH AN INDIVIDUAL IS CONFINED ON A CRIMINAL CHARGE,
3 WHETHER THE CORRECTIONAL FACILITY IS OPERATED BY THE STATE OR BY A
4 COUNTY OR MUNICIPAL CORPORATION OF THE STATE.

5 (D) POWER TO SUBPOENA AND EXAMINE WITNESSES.

6 AS NECESSARY TO CARRY OUT ITS DUTIES, THE COMMISSION MAY:

7 (1) ISSUE SUBPOENAS REQUIRING THE ATTENDANCE AND TESTIMONY
8 OF WITNESSES;

9 (2) ADMINISTER OATHS; AND

10 (3) EXAMINE WITNESSES UNDER OATH, INCLUDING ANY INMATE WHO
11 IS CONFINED IN A CORRECTIONAL FACILITY OPERATED BY THE STATE OR BY A
12 COUNTY OR MUNICIPAL CORPORATION OF THE STATE.

13 (E) PENALTY FOR FAILURE TO APPEAR OR TESTIFY.

14 (1) A PERSON WHO IS PERSONALLY SERVED WITH A SUBPOENA AND
15 WHO FAILS TO APPEAR OR REFUSES TO TESTIFY BEFORE THE COMMISSION IS
16 GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE OF NOT
17 LESS THAN \$25 AND NOT MORE THAN \$100.

18 (2) THE FINE IMPOSED UNDER PARAGRAPH (1) OF THIS SUBSECTION
19 SHALL BE PAID INTO THE GENERAL FUND OF THE STATE.

20 (F) FALSE STATEMENT.

21 A WITNESS WHO MAKES A FALSE STATEMENT RELATING TO A MATTER THAT IS
22 MATERIAL TO THE COMMISSION'S INQUIRY WHILE TESTIFYING BEFORE THE
23 COMMISSION IS GUILTY OF PERJURY AND ON CONVICTION IS SUBJECT TO THE
24 PENALTY ESTABLISHED UNDER ARTICLE 27, § 439 OF THE CODE.

25 REVISOR'S NOTE: This section is new language derived without substantive
26 change from former Art. 27, § 700G(b) and (c) and former Art. 41, §§
27 4-504(a) and 4-606, as it related to the Maryland Parole Commission.

28 In subsection (a)(2) of this section, the reference to authority to "enter into"
29 predetermined parole release agreements is added for consistency with
30 subsection (b) of this section. Correspondingly, the phrase "as provided
31 under subsection (b) of this section" is also added.

32 In subsection (a)(3)(i) of this section, the reference to the "appropriate
33 managing official" is substituted for the former reference to the "warden"
34 to reflect the current structure of the Division of Correction, which
35 includes pre-release facilities that are managed by "facility
36 administrators".

- 1 Also in subsection (a)(3)(i) of this section, the former reference to the
2 "superintendent" is deleted as obsolete. Currently, there are no
3 superintendent positions in the Division of Correction.
- 4 In subsection (a)(6) of this section, the reference to a term "of
5 imprisonment" is added for consistency throughout this article. See
6 General Revisor's Note to this article.
- 7 Also in subsection (a)(6) of this section, the reference to a correctional
8 facility "of a jurisdiction other than this State" is substituted for the former
9 reference to a correctional facility "in a foreign jurisdiction" for clarity.
- 10 The Correctional Services Article Review Committee notes, for
11 consideration by the General Assembly, that the meaning of the reference
12 to "cases of parole suspension" in subsection (a)(7) of this section is unclear.
13 The Commission does not hold hearings for "parole suspension". The
14 General Assembly may wish to delete the reference to "cases of parole
15 suspension" in subsection (a)(7) to reflect current practice.
- 16 In subsection (a)(8) of this section, the reference to an "alleged" violation of
17 a conditional pardon is added to state expressly that which was formerly
18 only implied in the reference to a "violation" of a conditional pardon.
- 19 Also in subsection (a)(8) of this section, the former reference to a violation
20 "of conditions" of a conditional pardon is deleted as implicit in the
21 reference to a violation of "a conditional pardon".
- 22 In subsection (b)(1)(i) of this section, the reference to the "Commissioner of
23 Correction" is added for consistency with the definition of "predetermined
24 parole release agreement" in § 7-101(l) of this title.
- 25 Also in subsection (b)(1)(i) of this section, the former phrase "[i]n
26 accordance with Article 41, § 4-504" is deleted as unnecessary because the
27 relevant part of former Art. 41, § 4-504 (i.e., Art. 41, § 4-504(a)) is revised
28 in subsection (a)(2) of this section, which authorizes the Commission to
29 negotiate, enter into, and sign predetermined parole release agreements
30 "as provided under subsection (b) of this section".
- 31 In subsection (b)(1)(ii) of this section, the reference to a "term" of
32 confinement is substituted for the former reference to a "period" of
33 confinement for consistency throughout this article. See General Revisor's
34 Note to this article.
- 35 In subsection (b)(2) of this section, the reference to former Art. 27, § 700A
36 is deleted for accuracy. Former Art. 27, § 700A, which related to work
37 release and is revised in §§ 3-801 through 3-806 of this article, did not
38 authorize an inmate to earn diminution credits.
- 39 Also in subsection (b)(2) of this section, the reference to diminution of "an
40 inmate's term of confinement" is substituted for the former reference to

1 diminution of "sentence" for consistency throughout this article. See
2 General Revisor's Note to this article.

3 In subsections (c) and (d)(3) of this section, the references to a "municipal
4 corporation" are substituted for the former references to a "city" to conform
5 to Md. Constitution, Art. XI-E.

6 In subsection (c) of this section, the reference to an "individual" is
7 substituted for the former reference to a "person" because only a human
8 being, and not the other entities included in the defined term "person", can
9 be confined in a correctional facility. See § 1-101 of this article for the
10 definition of "person".

11 The Correctional Services Article Review Committee notes, for
12 consideration by the General Assembly, that the meaning of "visitatorial
13 powers" in subsection (c) of this section is unclear. In other contexts,
14 similar terms have been interpreted in an extremely broad manner. See,
15 e.g., Wilson v. Board of Education, 234 Md. 561, 565 (1963) (stating that
16 the State Board of Education has "a visitatorial power of the most
17 comprehensive character"). The General Assembly may wish to clarify the
18 meaning of subsection (c) of this section. See also § 6-110 of this article and
19 accompanying Revisor's Note.

20 In the introductory language of subsection (d) of this section, the phrase
21 "[a]s necessary to carry out its duties" is substituted for the former phrase
22 "wherever, in the judgment of the said members of the Commission, it may
23 be necessary for the effectual discharge of their duties under this subtitle"
24 for brevity.

25 In subsection (d)(1) of this section, the reference to the authority of the
26 Commission to "issue subpoenas requiring attendance and testimony of
27 witnesses" is substituted for the former reference to the authority of the
28 Commission to "summon any witness" for clarity and consistency with
29 terminology used in this and other revised articles of the Code. Under Md.
30 Rule 1-202(z), "summons" means a document that notifies a person of a
31 court action. Under Md. Rule 1-202(y), "subpoena" means a document that
32 requires "attendance at a particular time and place to take the action
33 specified therein". Correspondingly, in subsection (e)(1) of this section, the
34 reference to failing to appear when "personally served with a subpoena" is
35 substituted for the former reference to failing to appear "at the time and
36 place specified, in answer to said summons".

37 In subsection (d)(2) of this section, the former reference to administering
38 "affirmations" is deleted in light of Art. 1, § 9 of the Code, which provides
39 that "[w]henver an oath is required by this Code an affirmation shall be
40 sufficient, if made by a person conscientiously scrupulous of taking an
41 oath".

42 In subsection (d)(3) of this section, the reference to "examin[ing] witnesses

1 under oath" is added for clarity and consistency with similar provisions in
2 this and other revised articles of the Code. See, e.g., BR § 10-201(b), CL §
3 13-405(a), FL § 9-209(b), FI §§ 11-214(b)(2), 11-515(d)(3), and
4 12-419(b)(2), HG § 19-718(c), IN §§ 2-203(a)(2), 8-319(c)(3), and
5 8-461(b)(2), LE § 9-404(i)(1)(ii), and SG § 9-1605(c)(3).

6 The Correctional Services Article Review Committee notes, for
7 consideration by the General Assembly, that the meaning of the reference
8 to a fine of "not less than \$25" in subsection (e)(1) of this section, which is
9 derived from former Art. 41, § 4-606, is unclear in light of Art. 27, § 643,
10 which allows a court to impose "a lesser penalty of the same character".
11 The General Assembly may wish to clarify whether subsection (e)(1) was
12 intended to create a mandatory minimum penalty of \$25. The Committee
13 was unable to resolve this question with any certainty because the
14 applicability of Art. 27, § 643 to former Art. 41, § 4-606 is unclear. In State
15 v. Fisher, 204 Md. 307, 315 (1953), Robertson v. Warden, 212 Md. 646, 648
16 (in dicta)(1956), Woodfork v. State, 3 Md. App. 622, 624-625 (1967), and
17 Dodson v. State, 14 Md. App. 483, 485-486 (1971), the courts held that Art.
18 27, § 643 is controlling only with regard to statutory penalty provisions
19 that existed at the time of its adoption in 1906 but that it might also be
20 given effect as to subsequently enacted laws "by construction". The original
21 version of former Art. 41, § 4-606 was enacted in 1914. See Ch. 500, Acts of
22 1914. Accordingly, under the above cases, Art. 27, § 643 was not applicable
23 to former Art. 41, § 4-606 unless it was given effect "by construction".
24 However, the relevancy of those decisions to this issue is unclear because
25 Art. 27, § 643 was repealed and reenacted three times after the last of
26 those cases was decided in 1971. In 1972, § 643 was made applicable to the
27 newly formed District Court. See Ch. 181, Acts of 1972. In 1982, the
28 obsolete reference to the "Criminal Court of Baltimore" was deleted from §
29 643. See Ch. 820, Acts of 1982. In the 1988 Corrective Bill, the reference to
30 the imposition of a "lesser" penalty was substituted for the former
31 reference to the imposition of a "less" penalty. See Ch. 6, Acts of 1988. In
32 sum, if the General Assembly intends for subsection (e)(1) of this section to
33 create a mandatory minimum penalty of \$25, it may wish to amend this
34 provision to expressly state that "notwithstanding Article 27, § 643 of the
35 Code, it is mandatory on the court to impose a penalty of no less than \$25"
36 and that "the mandatory minimum penalty of \$25 may not be suspended".
37 See also § 8-808 of this article and accompanying Revisor's Note.

38 In subsections (e)(1) and (f) of this section, the references to an "individual"
39 are substituted for the former references to a "person" because only a
40 human being, and not the other entities included in the defined term
41 "person", can testify before the Commission. See § 1-101 of this article for
42 the definition of "person".

43 In subsection (e)(2) of this section, the requirement that a fine "be paid
44 into" the General Fund of the State is substituted for the former
45 requirement that a fine "revert to" the General Fund of the State for
46 accuracy.

1 In subsection (f) of this section, the reference to being subject "on
 2 conviction ... to the penalty established under Article 27, § 439 of the Code"
 3 is added to state expressly that which was only implied in the former law.

4 Defined terms: "Commission" § 7-101

5 "Commissioner" § 7-101

6 "Commissioner of Correction" § 1-101

7 "Correctional facility" § 1-101

8 "County" § 1-101

9 "Inmate" § 1-101

10 "Managing official" § 1-101

11 "Parole" § 7-101

12 "Person" § 1-101

13 "Predetermined parole release agreement" § 7-101

14 7-206. DUTIES.

15 THE COMMISSION SHALL:

16 (1) EVALUATE INFORMATION ON THE ACTIVITIES OF PAROLEES THAT
 17 THE DIVISION OF PAROLE AND PROBATION REPORTS;

18 (2) ISSUE WARRANTS OR DELEGATE TO THE DIRECTOR OF THE DIVISION
 19 OF PAROLE AND PROBATION THE AUTHORITY TO ISSUE WARRANTS TO RETAKE
 20 PAROLEES WHO ARE CHARGED WITH VIOLATING A CONDITION OF PAROLE;

21 (3) REVIEW AND MAKE RECOMMENDATIONS TO THE GOVERNOR:

22 (I) CONCERNING PAROLE OF AN INMATE UNDER A SENTENCE OF
 23 LIFE IMPRISONMENT; AND

24 (II) IF REQUESTED BY THE GOVERNOR, CONCERNING A PARDON,
 25 COMMUTATION OF SENTENCE, OR OTHER CLEMENCY;

26 (4) ESTABLISH AND MODIFY GENERAL POLICY GOVERNING THE
 27 CONDUCT OF PAROLEES; AND

28 (5) ARRANGE FOR PSYCHIATRIC OR PSYCHOLOGICAL EXAMINATION OF
 29 APPLICANTS FOR PAROLE WHENEVER THE COMMISSION BELIEVES THAT AN
 30 EXAMINATION WILL BETTER ENABLE IT TO DECIDE ON THE ADVISABILITY OF
 31 PAROLE AND INCLUDE THE EXPENSE FOR THE EXAMINATION IN ITS ANNUAL
 32 BUDGET.

33 REVISOR'S NOTE: This section is new language derived without substantive
 34 change from former Art. 41, § 4-504(b).

35 In item (2) of this section, the former reference to an individual who is
 36 charged with "committ[ing] a new offense against the law" is deleted as
 37 unnecessary in light of the reference to an individual who is charged with
 38 "violating a condition of parole". An individual who commits an offense

1 against the law also violates a condition of parole.

2 In item (3)(ii) of this section, the phrase "if requested by the Governor" is
 3 added to state expressly that which was only implied in the former law,
 4 i.e., the Commission is required to review and make recommendations to
 5 the Governor concerning a pardon, commutation of sentence, or other
 6 clemency only if the Governor requests that the Commission undertake the
 7 review and make the recommendations.

8 In item (4) of this section, the former reference to modifying general policy
 9 "from time to time" is deleted as implicit in the reference to "modify[ing]
 10 general policy".

11 Defined terms: "Commission" § 7-101

12 "Commutation of sentence" § 7-101

13 "Division of Parole and Probation" § 1-101

14 "Inmate" § 1-101

15 "Pardon" § 7-101

16 "Parole" § 7-101

17 "Parolee" § 7-101

18 7-207. REGULATIONS.

19 (A) POLICIES AND ACTIVITIES OF COMMISSION.

20 (1) SUBJECT TO THE APPROVAL OF THE SECRETARY, THE COMMISSION
 21 SHALL ADOPT REGULATIONS GOVERNING ITS POLICIES AND ACTIVITIES UNDER THIS
 22 TITLE.

23 (2) NOTWITHSTANDING THE PROVISIONS OF § 10-101(G)(2)(I) OF THE
 24 STATE GOVERNMENT ARTICLE, REGULATIONS ADOPTED UNDER PARAGRAPH (1) OF
 25 THIS SUBSECTION SHALL COMPLY WITH TITLE 10, SUBTITLE 1 OF THE STATE
 26 GOVERNMENT ARTICLE.

27 (B) CONDUCT OF PROCEEDINGS; REVIEW OF EXCEPTIONS.

28 THE COMMISSION MAY ADOPT REGULATIONS GOVERNING:

29 (1) THE CONDUCT OF PROCEEDINGS BEFORE IT OR THE HEARING
 30 EXAMINERS; AND

31 (2) THE REVIEW AND DISPOSITION OF WRITTEN EXCEPTIONS TO THE
 32 RECOMMENDATION OF A HEARING EXAMINER.

33 REVISOR'S NOTE: This section is new language derived without substantive
 34 change from former Art. 41, §§ 4-504(f), 4-507(b), and 4-508(d)(4).

35 In subsection (a)(2) of this section, the former reference to the
 36 "(Administrative Procedure Act - Regulations)" is deleted as included in
 37 the reference to "Title 10, Subtitle 1 of the State Government Article".

1 As to the deletion of the former references to "rules" in subsection (b) of
2 this section, see General Revisor's Note to this article.

3 In subsection (b)(2) of this section, the reference to written exceptions "to
4 the recommendation of a hearing examiner" is added to state expressly
5 that which was only implied in the former reference to "written
6 exceptions".

7 For regulations adopted by the Commission, see Title 12, Subtitle 8 of the
8 Code of Maryland Regulations.

9 Defined terms: "Commission" § 7-101

10 "Secretary" § 1-101

11 7-208. RECORD OF ACTIONS; ANNUAL REPORT; RECOMMENDATIONS.

12 THE COMMISSION SHALL:

13 (1) MAINTAIN A RECORD OF ITS ACTIONS;

14 (2) MAKE AN ANNUAL REPORT TO THE GOVERNOR OF ITS WORK; AND

15 (3) MAKE APPROPRIATE RECOMMENDATIONS FOR THE IMPROVEMENT
16 OF ITS FUNCTIONS.

17 REVISOR'S NOTE: This section is new language derived without substantive
18 change from former Art. 41, § 4-512.

19 Defined term: "Commission" § 7-201

20 SUBTITLE 3. ELIGIBILITY FOR PAROLE; PAROLE HEARINGS.

21 7-301. ELIGIBILITY FOR PAROLE.

22 (A) IN GENERAL.

23 EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, THE COMMISSION SHALL
24 REQUEST THAT THE DIVISION OF PAROLE AND PROBATION MAKE AN
25 INVESTIGATION THAT WILL ENABLE THE COMMISSION TO DETERMINE THE
26 ADVISABILITY OF GRANTING PAROLE TO AN INMATE WHO:

27 (1) HAS BEEN SENTENCED UNDER THE LAWS OF THE STATE TO SERVE A
28 TERM OF 6 MONTHS OR MORE IN A CORRECTIONAL FACILITY; AND

29 (2) HAS SERVED IN CONFINEMENT ONE-FOURTH OF THE INMATE'S
30 AGGREGATE SENTENCE.

31 (B) MULTIPLE TERMS.

32 EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, IF AN INMATE HAS
33 BEEN SENTENCED TO A TERM OF IMPRISONMENT DURING WHICH THE INMATE IS

1 ELIGIBLE FOR PAROLE AND A TERM OF IMPRISONMENT DURING WHICH THE INMATE
2 IS NOT ELIGIBLE FOR PAROLE, THE INMATE IS NOT ELIGIBLE FOR PAROLE
3 CONSIDERATION UNDER SUBSECTION (A) OF THIS SECTION UNTIL THE INMATE HAS
4 SERVED THE GREATER OF:

5 (1) ONE-FOURTH OF THE INMATE'S AGGREGATE SENTENCE; OR

6 (2) A PERIOD EQUAL TO THE TERM DURING WHICH THE INMATE IS NOT
7 ELIGIBLE FOR PAROLE.

8 (C) VIOLENT CRIMES.

9 (1) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS
10 PARAGRAPH, AN INMATE WHO HAS BEEN SENTENCED TO THE DIVISION OF
11 CORRECTION AFTER BEING CONVICTED OF A VIOLENT CRIME COMMITTED ON OR
12 AFTER OCTOBER 1, 1994, IS NOT ELIGIBLE FOR PAROLE UNTIL THE INMATE HAS
13 SERVED THE GREATER OF:

14 1. ONE-HALF OF THE INMATE'S AGGREGATE SENTENCE FOR
15 VIOLENT CRIMES; OR

16 2. ONE-FOURTH OF THE INMATE'S TOTAL AGGREGATE
17 SENTENCE.

18 (II) AN INMATE WHO HAS BEEN SENTENCED TO THE DIVISION OF
19 CORRECTION AFTER BEING CONVICTED OF A VIOLENT CRIME COMMITTED ON OR
20 AFTER OCTOBER 1, 1994, AND WHO HAS BEEN SENTENCED TO MORE THAN ONE TERM
21 OF IMPRISONMENT, INCLUDING A TERM DURING WHICH THE INMATE IS ELIGIBLE
22 FOR PAROLE AND A TERM DURING WHICH THE INMATE IS NOT ELIGIBLE FOR
23 PAROLE, IS NOT ELIGIBLE FOR PAROLE UNTIL THE INMATE HAS SERVED THE
24 GREATER OF:

25 1. ONE-HALF OF THE INMATE'S AGGREGATE SENTENCE FOR
26 VIOLENT CRIMES;

27 2. ONE-FOURTH OF THE INMATE'S TOTAL AGGREGATE
28 SENTENCE; OR

29 3. A PERIOD EQUAL TO THE TERM DURING WHICH THE
30 INMATE IS NOT ELIGIBLE FOR PAROLE.

31 (2) AN INMATE WHO IS SERVING A TERM OF IMPRISONMENT FOR A
32 VIOLENT CRIME COMMITTED ON OR AFTER OCTOBER 1, 1994, SHALL RECEIVE AN
33 ADMINISTRATIVE REVIEW OF THE INMATE'S PROGRESS IN THE CORRECTIONAL
34 FACILITY AFTER THE INMATE HAS SERVED THE GREATER OF:

35 (I) ONE-FOURTH OF THE INMATE'S AGGREGATE SENTENCE; OR

36 (II) IF THE INMATE IS SERVING A TERM OF IMPRISONMENT THAT
37 INCLUDES A MANDATORY TERM DURING WHICH THE INMATE IS NOT ELIGIBLE FOR

1 PAROLE, A PERIOD EQUAL TO THE TERM DURING WHICH THE INMATE IS NOT
2 ELIGIBLE FOR PAROLE.

3 (D) LIFE IMPRISONMENT.

4 (1) EXCEPT AS PROVIDED IN PARAGRAPHS (2) AND (3) OF THIS
5 SUBSECTION, AN INMATE WHO HAS BEEN SENTENCED TO LIFE IMPRISONMENT IS
6 NOT ELIGIBLE FOR PAROLE CONSIDERATION UNTIL THE INMATE HAS SERVED 15
7 YEARS OR THE EQUIVALENT OF 15 YEARS CONSIDERING THE ALLOWANCES FOR
8 DIMINUTION OF THE INMATE'S TERM OF CONFINEMENT UNDER ARTICLE 27, § 638C
9 OF THE CODE AND TITLE 3, SUBTITLE 7 OF THIS ARTICLE.

10 (2) AN INMATE WHO HAS BEEN SENTENCED TO LIFE IMPRISONMENT AS
11 A RESULT OF A PROCEEDING UNDER ARTICLE 27, § 413 IS NOT ELIGIBLE FOR PAROLE
12 CONSIDERATION UNTIL THE INMATE HAS SERVED 25 YEARS OR THE EQUIVALENT OF
13 25 YEARS CONSIDERING THE ALLOWANCES FOR DIMINUTION OF THE INMATE'S TERM
14 OF CONFINEMENT UNDER ARTICLE 27, § 638C OF THE CODE AND TITLE 3, SUBTITLE 7
15 OF THIS ARTICLE.

16 (3) (I) IF AN INMATE HAS BEEN SENTENCED TO IMPRISONMENT FOR
17 LIFE WITHOUT THE POSSIBILITY OF PAROLE UNDER ARTICLE 27, § 412 OR § 413 OF
18 THE CODE, THE INMATE IS NOT ELIGIBLE FOR PAROLE CONSIDERATION AND MAY
19 NOT BE GRANTED PAROLE AT ANY TIME DURING THE INMATE'S SENTENCE.

20 (II) THIS PARAGRAPH DOES NOT RESTRICT THE AUTHORITY OF THE
21 GOVERNOR TO PARDON OR REMIT ANY PART OF A SENTENCE UNDER § 7-601 OF THIS
22 TITLE.

23 (4) IF ELIGIBLE FOR PAROLE UNDER THIS SUBSECTION, AN INMATE
24 SERVING A TERM OF LIFE IMPRISONMENT MAY ONLY BE PAROLED WITH THE
25 APPROVAL OF THE GOVERNOR.

26 REVISOR'S NOTE: This section is new language derived without substantive
27 change from former Art. 41, § 4-516.

28 In the introductory language of subsection (a) of this section, the phrase
29 "[e]xcept as otherwise provided in this section" is added to state expressly
30 that which only was implied in the former law.

31 Also in the introductory language of subsection (a) of this section, the
32 former reference to the Commission's duty to request an investigation "of
33 its own initiative" is deleted as implicit in the requirement that the
34 Commission request an investigation.

35 Also in the introductory language of subsection (a) of this section, the
36 reference to the Division "of Parole and Probation" is added to state
37 expressly that which was only implied in the former reference to the
38 "Division", *i.e.*, the Division of Parole and Probation is the entity that shall
39 be requested to make the investigation.

1 The Correctional Services Article Review Committee notes, for
2 consideration by the General Assembly, that the reference in the
3 introductory language of subsection (a) of this section to "the Division of
4 Parole and Probation mak[ing] an investigation" does not reflect current
5 practice. The Division of Parole and Probation currently conducts
6 pre-parole investigations for inmates in local correctional facilities and
7 submits the results of these investigations to the Commission. However,
8 the Division of Correction currently prepares pre-parole reports on the
9 progress of inmates in correctional facilities in the Division of Correction
10 and submits these reports to the Commission. The General Assembly may
11 wish to amend subsection (a) to reflect current practice.

12 In subsection (a)(2) of this section, the reference to the inmate's "aggregate
13 sentence" is substituted for the former reference to the inmate's "term or
14 consecutive terms" for consistency with subsections (b)(1) and (c)(1)(i)1 and
15 2 and (ii)1 and 2 and (2)(i) of this section. The reference to "aggregate
16 sentence" is intended to include situations in which inmates are serving
17 either a single sentence or multiple sentences. No substantive change is
18 intended.

19 In the introductory language of subsections (b) and (c)(2) and in subsection
20 (c)(1)(ii) and (2)(ii) of this section, the references to a term "of
21 imprisonment" are substituted for the former references to a term "of
22 confinement" for consistency throughout this article. See General Revisor's
23 Note to this article.

24 In the introductory language of subsection (b) of this section, the former
25 reference to an inmate who has been sentenced to "more than one term of
26 confinement" is deleted as implicit in the reference to an inmate who has
27 been sentenced to "a term of imprisonment during which the inmate is
28 eligible for parole and a term of imprisonment during which the inmate is
29 not eligible for parole".

30 In subsection (b) of this section, the phrase "[e]xcept as provided in
31 subsection (c) of this section" is added to state expressly that which was
32 only implied in the former law.

33 In subsections (b)(2) and (c)(1)(ii)3 of this section, the references to a period
34 "of time" are deleted as implicit in the reference to a "period".
35 Correspondingly, in subsection (c)(2)(ii) of this section, the reference to a
36 period "of confinement" is deleted.

37 In subsection (c) of this section, the former phrase "[n]otwithstanding the
38 provisions of subsections (a) and (b) of this section" is deleted as
39 unnecessary in light of the introductory language of subsections (a) and (b)
40 of this section.

41 In subsection (c)(1) of this section, the phrase "[e]xcept as provided in
42 subparagraph (ii) of this paragraph" is added to state expressly that which

1 was only implied in the former law.

2 In subsection (c)(1)(i) of this section, the reference to an inmate who has
3 served "the greater of ... one-half of the inmate's aggregate sentence for
4 violent crimes ... or ... one-fourth of the inmate's total aggregate sentence"
5 is substituted for the former reference to an inmate who has served
6 "one-half of the term or consecutive terms" for clarity. The Correctional
7 Services Article Review Committee notes, for consideration by the General
8 Assembly, that the meaning of the reference to "one-half of the term or
9 consecutive terms" is ambiguous in situations involving inmates who are
10 serving at least one sentence for a violent crime and at least one sentence
11 for a nonviolent crime. The Committee has applied the rule of lenity to
12 former Art. 41, § 4-516(c)(1)(i) to determine its meaning in such situations
13 and has revised subsection (c)(1)(i) of this section to reflect the application
14 of that rule. See generally Maryland House of Corrections v. Fields, 348
15 Md. 245, 267 (1997). Correspondingly, in subsection (c)(1)(ii) of this section,
16 the reference to "one-half of the inmate's aggregate sentence for violent
17 crimes ... [or] one-fourth of the inmate's total aggregate sentence" has been
18 substituted for the former reference to "one-half of the aggregate terms
19 sentenced". No substantive change is intended.

20 In subsection (c)(1)(i) and (ii) and the introductory language of (c)(2) of this
21 section, the references to a violent crime "committed on or after October 1,
22 1994" are added for accuracy. See § 3 of Chs. 716 and 717 of 1994.

23 In the introductory language of subsection (c)(2) of this section, the
24 reference to the defined term "correctional facility" is substituted for the
25 former reference to "institution" for consistency throughout this article.
26 See § 1-101 of this article for the definition of "correctional facility".

27 The Correctional Services Article Review Committee notes, for
28 consideration by the General Assembly, that subsection (c) of this section
29 applies only to an inmate who has been sentenced to the Division of
30 Correction after being convicted of a violent crime. It does not apply to an
31 inmate who is sentenced to a local correctional facility after being
32 convicted of a violent crime. The General Assembly may wish to amend
33 subsection (c) to make it applicable to these types of inmates.

34 In subsection (d)(1) and (2) of this section, the references to a "term" of
35 confinement are substituted for the former references to a "period" of
36 confinement for consistency throughout this article. See General Revisor's
37 Note to this article.

38 In subsection (d)(3)(i) of this section, the former reference to the inmate's
39 "term of" sentence is deleted as included in the reference to the inmate's
40 "sentence".

41 In subsection (d)(4) of this section, the former reference to an individual
42 "serving a term of life imprisonment who is confined at Patuxent

1 Institution as an eligible person" is deleted as redundant of former Art. 41,
2 § 11(b)(5), which is revised in § 4-305(b)(3) of this article.

3 Defined terms: "Commission" § 7-101

4 "Correctional facility" § 1-101

5 "Division of Correction" § 1-101

6 "Division of Parole and Probation" § 1-101

7 "Inmate" § 1-101

8 "Pardon" § 7-101

9 "Parole" § 7-101

10 "Violent crime" § 7-101

11 7-302. FREQUENCY OF HEARINGS.

12 THE COMMISSION OR THE COMMISSION'S HEARING EXAMINERS SHALL HEAR
13 CASES FOR PAROLE RELEASE:

14 (1) AT LEAST ONCE EACH MONTH AT EACH CORRECTIONAL FACILITY IN
15 THE DIVISION OF CORRECTION; AND

16 (2) AS OFTEN AS NECESSARY AT OTHER CORRECTIONAL FACILITIES IN
17 THE STATE AT WHICH INMATES ELIGIBLE FOR PAROLE CONSIDERATION ARE
18 CONFINED.

19 REVISOR'S NOTE: This section is new language derived without substantive
20 change from former Art. 41, § 4-507(a).

21 Defined terms: "Commission" § 7-101

22 "Correctional facility" § 1-101

23 "Division of Correction" § 1-101

24 "Parole" § 7-101

25 7-303. NOTICE TO INMATE.

26 (A) IN GENERAL.

27 BEFORE ANY HEARING ON PAROLE RELEASE, THE COMMISSION SHALL GIVE
28 THE INMATE ADEQUATE AND TIMELY WRITTEN NOTICE OF:

29 (1) THE DATE, TIME, AND PLACE OF THE HEARING; AND

30 (2) THE FACTORS THAT THE COMMISSION OR HEARING EXAMINER WILL
31 CONSIDER IN DETERMINING WHETHER THE INMATE IS SUITABLE FOR PAROLE.

32 (B) EXAMINATION OF DOCUMENTS BY INMATE OR INMATE'S
33 REPRESENTATIVE.

34 (1) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS
35 PARAGRAPH, THE NOTICE ALSO SHALL INDICATE THAT, BEFORE THE HEARING, THE

1 DOCUMENT THAT THE COMMISSION OR HEARING EXAMINER WILL USE IN
2 DETERMINING WHETHER THE INMATE IS SUITABLE FOR PAROLE.

3 (II) A DOCUMENT, OR A PORTION OF IT, IS NOT AVAILABLE FOR
4 EXAMINATION, IF THE COMMISSION DETERMINES THAT:

5 1. THE DOCUMENT OR PORTION CONTAINS A DIAGNOSTIC
6 OPINION;

7 2. THE INMATE'S KNOWLEDGE OF THE DOCUMENT OR
8 PORTION WOULD DISRUPT SERIOUSLY A PROGRAM OF REHABILITATION;

9 3. THE DOCUMENT OR PORTION CONTAINS SOURCES OF
10 INFORMATION OBTAINED ON A PROMISE OF CONFIDENTIALITY; OR

11 4. THE DOCUMENT OR PORTION IS OTHERWISE PRIVILEGED.

12 (III) IF THE COMMISSION DETERMINES THAT A DOCUMENT OR A
13 PORTION OF IT IS NOT AVAILABLE FOR EXAMINATION, THE COMMISSION SHALL
14 NOTIFY THE INMATE THAT:

15 1. THE DOCUMENT OR PORTION IS NOT AVAILABLE FOR
16 EXAMINATION; AND

17 2. ON REQUEST AND IF APPROPRIATE, THE COMMISSION
18 WILL PROVIDE THE INMATE OR THE INMATE'S REPRESENTATIVE WITH THE
19 SUBSTANCE OF ANY INFORMATION CONTAINED IN THE DOCUMENT OR PORTION.

20 (2) THE COMMISSION SHALL DELETE THE ADDRESS AND PHONE
21 NUMBER OF THE VICTIM OR THE VICTIM'S DESIGNATED REPRESENTATIVE FROM A
22 DOCUMENT BEFORE THE INMATE OR THE INMATE'S REPRESENTATIVE EXAMINES
23 THE DOCUMENT.

24 REVISOR'S NOTE: This section is new language derived without substantive
25 change from former Art. 41, § 4-505.

26 In subsections (a)(2) and (b)(1)(i) of this section, the references to
27 determining "whether the inmate is suitable for parole" are added to state
28 expressly that which was only implied in the former references to a
29 "determination".

30 Defined terms: "Commission" § 7-101

31 "Inmate" § 1-101

32 "Parole" § 7-101

33 7-304. WHEN HEARING OPEN TO PUBLIC; ATTENDANCE BY VICTIM OR VICTIM'S
34 REPRESENTATIVE.

35 (A) WHEN HEARING OPEN TO PUBLIC.

1 A PAROLE HEARING BEFORE THE COMMISSION OR A HEARING EXAMINER
2 SHALL BE OPEN TO THE PUBLIC IF A VICTIM, AS DEFINED IN § 7-801 OF THIS
3 SUBTITLE:

4 (1) MAKES A WRITTEN REQUEST FOR NOTIFICATION UNDER §
5 7-801(B)(1)(II) OF THIS TITLE OR FILES A NOTIFICATION REQUEST FORM UNDER
6 ARTICLE 27, § 770 OF THE CODE; AND

7 (2) WITHIN A REASONABLE AMOUNT OF TIME BEFORE A SCHEDULED
8 HEARING, MAKES A WRITTEN REQUEST THAT THE HEARING BE OPEN TO THE
9 PUBLIC.

10 (B) VOTES AVAILABLE TO PUBLIC.

11 THE VOTE OF EACH COMMISSIONER WHEN ACTING COLLECTIVELY OR IN A
12 PANEL, OR THE DECISION OF AN INDIVIDUAL COMMISSIONER OR HEARING
13 EXAMINER ON A FORMAL ACTION, INCLUDING AN ACTION TO CLOSE OR RESTRICT
14 ACCESS TO A PAROLE HEARING UNDER SUBSECTION (D) OF THIS SECTION, SHALL BE
15 MADE AVAILABLE TO THE PUBLIC.

16 (C) ATTENDANCE BY VICTIM OR VICTIM'S REPRESENTATIVE.

17 SUBJECT TO SUBSECTION (D) OF THIS SECTION, THE VICTIM OR VICTIM'S
18 REPRESENTATIVE HAS THE RIGHT TO ATTEND AN OPEN PAROLE HEARING.

19 (D) CLOSING OR RESTRICTING ACCESS TO HEARING.

20 THE COMMISSION, A PANEL OF COMMISSIONERS, AN INDIVIDUAL
21 COMMISSIONER, OR A HEARING EXAMINER MAY:

22 (1) RESTRICT THE NUMBER OF INDIVIDUALS ALLOWED TO ATTEND A
23 PAROLE HEARING IN ACCORDANCE WITH PHYSICAL LIMITATIONS OR SECURITY
24 REQUIREMENTS OF THE FACILITY WHERE THE HEARING IS HELD;

25 (2) DENY ADMISSION OR CONTINUED ATTENDANCE AT A PAROLE
26 HEARING TO AN INDIVIDUAL WHO:

27 (I) THREATENS OR PRESENTS A DANGER TO THE SECURITY OF
28 THE FACILITY IN WHICH THE HEARING IS BEING HELD;

29 (II) THREATENS OR PRESENTS A DANGER TO OTHER ATTENDEES
30 OR PARTICIPANTS; OR

31 (III) DISRUPTS THE HEARING;

32 (3) BY FORMAL ACTION, CLOSE A PAROLE HEARING TO DELIBERATE ON
33 THE EVIDENCE AND ANY OTHER RELEVANT INFORMATION RECEIVED AT THE
34 HEARING; OR

35 (4) BY FORMAL ACTION, CLOSE A PAROLE HEARING ON WRITTEN
36 REQUEST OF THE CHIEF LAW ENFORCEMENT OFFICIAL RESPONSIBLE FOR AN

1 ONGOING CRIMINAL INVESTIGATION RELATED TO THE INMATE, IF THE ONGOING
2 INVESTIGATION COULD BE COMPROMISED.

3 (E) VIDEO CONFERENCE.

4 THIS SECTION DOES NOT LIMIT THE AUTHORITY OF THE COMMISSION TO HOLD
5 A PAROLE HEARING THROUGH THE USE OF A VIDEO CONFERENCE OR OTHER MEANS
6 OF ELECTRONIC TRANSMISSION.

7 REVISOR'S NOTE: This section is new language derived without substantive
8 change from former Art. 41, § 4-507(c), (d), and (e).

9 The Correctional Services Article Review Committee notes, for
10 consideration by the General Assembly, that the meaning of the reference,
11 in subsection (a)(1) of this section, to a "request for notification under §
12 7-801(b)(1)(ii) of this title" is unclear. The Committee is uncertain as to
13 whether this means a generic "request for notification" or, alternatively, a
14 specific "request for notification of a parole hearing". The General
15 Assembly may wish to clarify this issue. For a more detailed discussion of
16 this issue, see § 7-801(b)(1)(ii) of this title and accompanying Revisor's
17 Note.

18 The Correctional Services Article Review Committee also notes, for
19 consideration by the General Assembly, that the meaning of the references
20 to "formal action" in subsections (b) and (d)(3) and (4) of this section are
21 unclear. The Committee is uncertain as to what constitutes "formal
22 action". The General Assembly may wish to clarify the meaning of this
23 term.

24 In subsection (c) of this section, the reference to "an open parole" hearing is
25 added to state expressly that which was formerly only implied in the
26 reference to "the hearing".

27 In subsection (d)(3) of this section, the reference to "evidence" is
28 substituted for the former reference to "oral testimony" for accuracy and
29 brevity.

30 In subsection (e) of this section, the reference to the Commission's
31 "authority" is substituted for the former reference to the Commission's
32 "ability" for consistency throughout this article with regard to language
33 that refers to the powers of units of State government.

34 Defined terms: "Commission" § 7-101

35 "Commissioner" § 7-101

36 "Inmate" § 1-101

37 "Parole" § 7-101

1 7-305. FACTORS AND INFORMATION TO BE CONSIDERED.

2 EACH HEARING EXAMINER AND COMMISSIONER DETERMINING WHETHER AN
3 INMATE IS SUITABLE FOR PAROLE, AND THE COMMISSION BEFORE ENTERING INTO A
4 PREDETERMINED PAROLE RELEASE AGREEMENT, SHALL CONSIDER:

5 (1) THE CIRCUMSTANCES SURROUNDING THE CRIME;

6 (2) THE PHYSICAL, MENTAL, AND MORAL QUALIFICATIONS OF THE
7 INMATE;

8 (3) THE PROGRESS OF THE INMATE DURING CONFINEMENT, INCLUDING
9 THE ACADEMIC PROGRESS OF THE INMATE IN THE MANDATORY EDUCATION
10 PROGRAM REQUIRED UNDER § 22-102 OF THE EDUCATION ARTICLE;

11 (4) WHETHER THERE IS REASONABLE PROBABILITY THAT THE INMATE,
12 IF RELEASED ON PAROLE, WILL REMAIN AT LIBERTY WITHOUT VIOLATING THE LAW;

13 (5) WHETHER RELEASE OF THE INMATE ON PAROLE IS COMPATIBLE
14 WITH THE WELFARE OF SOCIETY;

15 (6) AN UPDATED VICTIM IMPACT STATEMENT OR RECOMMENDATION
16 PREPARED UNDER § 7-801 OF THIS TITLE;

17 (7) ANY RECOMMENDATION MADE BY THE SENTENCING JUDGE AT THE
18 TIME OF SENTENCING;

19 (8) ANY INFORMATION THAT IS PRESENTED TO A COMMISSIONER AT A
20 MEETING WITH THE VICTIM; AND

21 (9) ANY TESTIMONY PRESENTED TO THE COMMISSION BY THE VICTIM
22 OR THE VICTIM'S DESIGNATED REPRESENTATIVE UNDER § 7-801 OF THIS TITLE.

23 REVISOR'S NOTE: This section is new language derived without substantive
24 change from former Art. 41, § 4-506.

25 In item (2) of this section, the former reference to an inmate who is
26 "eligible for parole" is deleted as implicit in the reference to an "inmate".

27 Defined terms: "Commission" § 7-101

28 "Commissioner" § 1-101

29 "Inmate" § 1-101

30 "Parole" § 7-101

31 "Predetermined parole release agreement" § 7-101

32 7-306. HEARING CONDUCTED BY HEARING EXAMINER.

33 (A) ASSIGNMENT OF HEARING EXAMINERS; CONDUCT OF PROCEEDINGS.

1 (1) THE CHAIRPERSON OF THE COMMISSION SHALL ASSIGN HEARING
2 EXAMINERS, OR COMMISSIONERS ACTING AS HEARING EXAMINERS, AS REQUIRED TO
3 HEAR CASES FOR PAROLE.

4 (2) EACH PROCEEDING BEFORE A HEARING EXAMINER SHALL BE
5 CONDUCTED IN ACCORDANCE WITH THIS SECTION.

6 (B) RECORD.

7 THE COMMISSION SHALL KEEP A RECORD OF EACH HEARING CONDUCTED BY A
8 HEARING EXAMINER.

9 (C) DETERMINATION BY HEARING EXAMINER.

10 A HEARING EXAMINER SHALL DETERMINE IF AN INMATE IS SUITABLE FOR
11 PAROLE IN ACCORDANCE WITH THE STANDARDS SPECIFIED IN § 7-305 OF THIS
12 SUBTITLE.

13 (D) RECOMMENDATIONS AND REPORT OF HEARING EXAMINER; EXCEPTIONS.

14 (1) AT THE CONCLUSION OF THE HEARING, THE HEARING EXAMINER
15 SHALL INFORM THE INMATE OF THE HEARING EXAMINER'S RECOMMENDATION FOR
16 PAROLE OR DENIAL OF PAROLE.

17 (2) WITHIN 21 DAYS AFTER THE HEARING, THE HEARING EXAMINER
18 SHALL GIVE TO THE COMMISSION, THE COMMISSIONER OF CORRECTION, AND THE
19 INMATE A WRITTEN REPORT OF THE HEARING EXAMINER'S FINDINGS AND
20 RECOMMENDATION FOR PAROLE OR DENIAL OF PAROLE.

21 (3) THE COMMISSIONER OF CORRECTION OR THE INMATE MAY FILE
22 WITH THE COMMISSION WRITTEN EXCEPTIONS TO THE REPORT OF A HEARING
23 EXAMINER NO LATER THAN 5 DAYS AFTER THE REPORT IS RECEIVED.

24 (E) REVIEW OF RECOMMENDATION OF HEARING EXAMINER.

25 (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, ONE
26 COMMISSIONER ASSIGNED BY THE CHAIRPERSON OF THE COMMISSION SHALL
27 REVIEW SUMMARILY THE RECOMMENDATION OF THE HEARING EXAMINER.

28 (2) (I) THE COMMISSION, ON ITS OWN INITIATIVE OR ON THE FILING
29 OF AN EXCEPTION, MAY SCHEDULE A HEARING ON THE RECORD BY THE ENTIRE
30 COMMISSION OR BY A PANEL OF AT LEAST TWO COMMISSIONERS ASSIGNED BY THE
31 CHAIRPERSON OF THE COMMISSION.

32 (II) THE COMMISSION OR PANEL SHALL RENDER A WRITTEN
33 DECISION ON THE APPEAL.

34 (III) THE DECISION OF THE COMMISSION OR PANEL IS FINAL.

35 (3) IF AN EXCEPTION IS NOT FILED AND THE COMMISSION DOES NOT
36 ACT ON ITS OWN INITIATIVE WITHIN THE 5-DAY APPEAL PERIOD ESTABLISHED

1 UNDER SUBSECTION (D)(3) OF THIS SECTION, THE RECOMMENDATION OF THE
2 HEARING EXAMINER IS APPROVED.

3 REVISOR'S NOTE: This section is new language derived without substantive
4 change from former Art. 41, § 4-508(a), (b), (c), (d)(1), (2), and (3), and (e).

5 In subsection (b) of this section, the reference to the duty of "[t]he
6 Commission" to keep a record of each hearing is added to state expressly
7 that which was only implied in the former law, i.e., the Commission is the
8 entity that is responsible for keeping a record of each hearing.

9 The Correctional Services Article Review Committee notes, for
10 consideration by the General Assembly, that subsection (c) of this section
11 requires a hearing examiner to determine whether an inmate is suitable
12 for parole in accordance with the "standards" specified in § 7-305 of this
13 subtitle. The Committee believes that this reference to "standards" is
14 inconsistent with the language of § 7-305 of this subtitle, which identifies
15 certain factors and information that must be considered when determining
16 whether an inmate is suitable for parole. The Committee does not believe
17 that the specified factors and information can be accurately described as
18 "standards". The General Assembly may wish to address this inconsistency
19 by deleting the reference to "standards" in subsection (c) of this section and
20 substituting a reference to "factors and other information". See also §
21 7-307(b)(1)(i) and (2) of this subtitle and accompanying Revisor's Note.

22 In subsection (d)(1) of this section, the reference to the recommendation
23 "for parole or denial of parole" is added for consistency with subsection
24 (d)(2) of this section.

25 In subsection (d)(3) of this section, the reference to filing written
26 exceptions "with the Commission" is added to state expressly that which
27 was only implied in the former law.

28 In subsection (e)(2)(i) of this section, the reference to the Commission
29 scheduling a hearing on its own "initiative" is substituted for the former
30 reference to the Commission scheduling a hearing on its own "motion" for
31 accuracy. The Commission does not act on a "motion".

32 In subsection (e)(3) of this section, the former reference to a
33 recommendation that "shall be considered" approved is deleted as
34 surplusage.

35 Defined terms: "Commission" § 7-101

36 "Commissioner" § 7-101

37 "Commissioner of Correction" § 1-101

38 "Inmate" § 1-101

39 "Parole" § 7-101

1 7-307. HEARING CONDUCTED BY COMMISSION PANEL.

2 (A) ASSIGNMENT OF COMMISSIONERS; CONDUCT OF HEARING.

3 (1) THE CHAIRPERSON OF THE COMMISSION SHALL ASSIGN AT LEAST
4 TWO COMMISSIONERS TO HEAR CASES FOR PAROLE RELEASE AS A PANEL.

5 (2) EACH PROCEEDING BEFORE A COMMISSION PANEL SHALL BE
6 CONDUCTED IN ACCORDANCE WITH THIS SECTION.

7 (B) DETERMINATION BY COMMISSION PANEL.

8 (1) (I) A COMMISSION PANEL THAT CONSISTS OF TWO
9 COMMISSIONERS SHALL DETERMINE, BY UNANIMOUS VOTE, WHETHER THE INMATE
10 IS SUITABLE FOR PAROLE IN ACCORDANCE WITH THE STANDARDS SPECIFIED IN §
11 7-305 OF THIS SUBTITLE.

12 (II) IF THE TWO-COMMISSIONER PANEL IS UNABLE TO REACH A
13 UNANIMOUS DECISION, THE CHAIRPERSON OF THE COMMISSION SHALL CONVENE A
14 THREE-COMMISSIONER PANEL AS SOON AS PRACTICABLE TO REHEAR THE CASE.

15 (2) A COMMISSION PANEL THAT CONSISTS OF THREE COMMISSIONERS
16 SHALL DETERMINE, BY MAJORITY VOTE, WHETHER THE INMATE IS SUITABLE FOR
17 PAROLE IN ACCORDANCE WITH THE STANDARDS SPECIFIED IN § 7-305 OF THIS
18 SUBTITLE.

19 (C) NOTICE TO INMATE; WRITTEN REPORT.

20 (1) THE COMMISSION PANEL SHALL INFORM THE INMATE AND THE
21 APPROPRIATE CORRECTIONAL AUTHORITY OF THE COMMISSION'S DECISION AS
22 SOON AS POSSIBLE.

23 (2) IF PAROLE IS DENIED, THE COMMISSION SHALL GIVE THE INMATE A
24 WRITTEN REPORT OF ITS FINDINGS WITHIN 30 DAYS AFTER THE HEARING.

25 REVISOR'S NOTE: This section is new language derived without substantive
26 change from former Art. 41, § 4-509.

27 The Correctional Services Article Review Committee notes, for
28 consideration by the General Assembly, that subsection (b)(1)(i) and (2) of
29 this section require a Commission panel to determine whether an inmate
30 is suitable for parole in accordance with the "standards" specified in §
31 7-305 of this subtitle. The Committee believes that this reference to
32 "standards" is inconsistent with the language of § 7-305 of this subtitle,
33 which identifies certain factors and information that must be considered
34 when determining whether an inmate is suitable for parole. The
35 Committee does not believe that the specified factors and information can
36 be accurately described as "standards". The General Assembly may wish to
37 address this inconsistency by deleting the references to "standards" in
38 subsection (b)(1)(i) and (2) of this section and substituting references to

1 "factors and other information". See also § 7-306(c) of this subtitle and
2 accompanying Revisor's Note.

3 In subsection (c)(1) of this section, the reference to the Commission "panel"
4 is substituted for the former reference to the Commission "members" for
5 consistency within this section.

6 Defined terms: "Commission" § 7-101

7 "Commissioner" § 7-101

8 "Inmate" § 1-101

9 "Parole" § 7-101

10 7-308. PAROLE ORDER.

11 (A) WRITTEN ORDER.

12 A PAROLE SHALL BE EVIDENCED BY A WRITTEN ORDER.

13 (B) EFFECT OF ORDER.

14 PAROLE ENTITLES THE RECIPIENT:

15 (1) TO LEAVE THE CORRECTIONAL FACILITY IN WHICH THE RECIPIENT
16 WAS CONFINED; AND

17 (2) IF THE RECIPIENT SATISFACTORILY COMPLIES WITH ALL THE
18 TERMS AND CONDITIONS PROVIDED IN THE PAROLE ORDER, TO SERVE THE
19 REMAINDER OF THE RECIPIENT'S TERM OF CONFINEMENT OUTSIDE THE CONFINES
20 OF THE CORRECTIONAL FACILITY.

21 (C) LEGAL STATUS.

22 A PAROLEE REMAINS IN LEGAL CUSTODY UNTIL THE EXPIRATION OF THE
23 PAROLEE'S FULL, UNDIMINISHED TERM.

24 (D) FILING COPY OF PAROLE ORDER.

25 THE CHAIRPERSON OF THE COMMISSION SHALL FILE A COPY OF THE PAROLE
26 ORDER WITH THE CLERK OF THE COURT IN WHICH THE PAROLEE WAS SENTENCED.

27 REVISOR'S NOTE: This section is new language derived without substantive
28 change from former Art. 41, § 4-510 and the second sentence and, as it
29 related to legal custody, third sentence of § 4-501(5).

30 In subsection (c) of this section, the former reference to a parolee being
31 "deemed" to remain in legal custody is deleted as surplusage.

32 In subsection (d) of this section, the phrase "[w]henver a decision to
33 release an inmate on parole is made under this subtitle" is deleted as
34 implicit in the reference to a "parole order".

1 Also in subsection (d) of this section, the former reference to a parole order
2 "implement[ing] that decision" is deleted as implicit in the reference to a
3 "parole order".

4 Defined terms: "Commission" § 7-101

5 "Correctional facility" § 1-101

6 "Parole" § 7-101

7 "Parolee" § 7-101

8 SUBTITLE 4. REVOCATION OF PAROLE; MODIFICATION OF PAROLE; CONVICTION OF
9 CRIME COMMITTED WHILE ON PAROLE.

10 7-401. REVOCATION OF PAROLE.

11 (A) HEARING BY ONE COMMISSIONER.

12 IF A PAROLEE IS ALLEGED TO HAVE VIOLATED A CONDITION OF PAROLE, ONE
13 COMMISSIONER SHALL HEAR THE CASE ON REVOCATION OF THE PAROLE AT THE
14 TIME AND PLACE THAT THE COMMISSION DESIGNATES.

15 (B) COUNSEL; RECORD.

16 (1) EACH INDIVIDUAL CHARGED WITH A PAROLE VIOLATION IS
17 ENTITLED TO BE REPRESENTED BY COUNSEL OF THE INDIVIDUAL'S CHOICE OR
18 COUNSEL PROVIDED BY THE PUBLIC DEFENDER'S OFFICE.

19 (2) THE COMMISSION SHALL KEEP A RECORD OF THE HEARING.

20 (C) ACTION AUTHORIZED TO BE TAKEN BY COMMISSIONER.

21 IF THE COMMISSIONER FINDS FROM THE EVIDENCE THAT THE PAROLEE HAS
22 VIOLATED A CONDITION OF PAROLE, THE COMMISSIONER MAY TAKE ANY ACTION
23 THAT THE COMMISSIONER CONSIDERS APPROPRIATE, INCLUDING:

24 (1) (I) REVOKING THE ORDER OF PAROLE;

25 (II) SETTING A FUTURE HEARING DATE FOR CONSIDERATION FOR
26 REPAROLE; AND

27 (III) REMANDING THE INDIVIDUAL TO THE DIVISION OF
28 CORRECTION OR LOCAL CORRECTIONAL FACILITY FROM WHICH THE INDIVIDUAL
29 WAS PAROLED; OR

30 (2) CONTINUING PAROLE:

31 (I) WITHOUT MODIFICATION OF ITS CONDITIONS; OR

32 (II) WITH MODIFICATION OF ITS CONDITIONS, INCLUDING A
33 REQUIREMENT THAT THE PAROLEE SPEND ALL OR PART OF THE REMAINING PAROLE
34 PERIOD IN A HOME DETENTION PROGRAM.

1 (D) PORTION OF SENTENCE TO BE SERVED.

2 (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION AND FURTHER
3 ACTION BY THE COMMISSION, IF THE ORDER OF PAROLE IS REVOKED, THE INMATE
4 SHALL SERVE THE REMAINDER OF THE SENTENCE ORIGINALLY IMPOSED UNLESS
5 THE COMMISSIONER HEARING THE PAROLE REVOCATION, IN THE COMMISSIONER'S
6 DISCRETION, GRANTS CREDIT FOR TIME BETWEEN RELEASE ON PAROLE AND
7 REVOCATION OF PAROLE.

8 (2) AN INMATE MAY NOT RECEIVE CREDIT FOR TIME BETWEEN
9 RELEASE ON PAROLE AND REVOCATION OF PAROLE IF:

10 (I) THE INMATE WAS SERVING A SENTENCE FOR A VIOLENT CRIME
11 WHEN PAROLE WAS REVOKED; AND

12 (II) THE PAROLE WAS REVOKED DUE TO A FINDING THAT THE
13 INMATE COMMITTED A VIOLENT CRIME WHILE ON PAROLE.

14 (E) JUDICIAL REVIEW.

15 (1) THE INMATE MAY SEEK JUDICIAL REVIEW IN THE CIRCUIT COURT
16 WITHIN 30 DAYS AFTER RECEIVING THE WRITTEN DECISION OF THE COMMISSION.

17 (2) THE COURT SHALL HEAR THE ACTION ON THE RECORD.

18 REVISOR'S NOTE: This section is new language derived without substantive
19 change from former Art. 41, § 4-511(a) through (e) and, as it related to
20 remand of an individual after a parole violation, the third sentence of §
21 4-501(5).

22 The Correctional Services Article Review Committee notes, for
23 consideration by the General Assembly, that subsection (b)(1) of this
24 section provides that an individual is entitled to be represented at a parole
25 revocation hearing by counsel of the individual's choice or "counsel
26 provided by the Public Defender's Office". The Committee believes that the
27 part of subsection (b)(1) that refers to the Public Defender's Office is
28 inconsistent with Art. 27A, which requires that the Public Defender's
29 Office provide representation only to "eligible" individuals. The General
30 Assembly may wish to amend subsection (b)(1) to provide that an
31 individual is entitled to be represented at a parole revocation hearing by
32 counsel of the individual's choice or, "if eligible", by the Public Defender's
33 Office.

34 In subsection (b)(2) of this section, the reference to the duty of "the
35 Commission" to keep a record of each hearing is added to state expressly
36 that which was only implied in the former law.

37 In subsection (e)(1) of this section, the reference to the inmate's right to
38 "seek judicial review" is substituted for the former reference to the
39 inmate's right to "appeal" for accuracy. See, e.g., Md. Rule 7-201.

1 Correspondingly, in subsection (e)(2) of this section, the reference to the
2 "action" is substituted for the former reference to the "appeal".

3 Defined terms: "Commission" § 7-101

4 "Commissioner" § 7-101

5 "Division of Correction" § 1-101

6 "Inmate" § 1-101

7 "Local correctional facility" § 1-101

8 "Parole" § 7-101

9 "Parolee" § 7-101

10 "Violent crime" § 7-101

11 7-402. MODIFICATION OF PAROLE.

12 (A) GROUNDS; CONDITIONS.

13 (1) ON RECOMMENDATION OF THE DIVISION OF PAROLE AND
14 PROBATION OR ON THE COMMISSION'S OWN INITIATIVE, THE COMMISSION MAY
15 MODIFY THE CONDITIONS OF PAROLE AT ANY TIME FOR GOOD CAUSE.

16 (2) THE MODIFICATION MAY INCLUDE IMPOSING HOME DETENTION AS
17 A CONDITION OF PAROLE.

18 (B) PROCEDURES.

19 (1) THE COMMISSION SHALL ADOPT PROCEDURES FOR THE
20 MODIFICATION OF CONDITIONS OF PAROLE THAT GIVE A PAROLEE AN OPPORTUNITY
21 TO SHOW WHY THE CONDITIONS SHOULD NOT BE MODIFIED.

22 (2) THIS SECTION DOES NOT REQUIRE A HEARING OR ESTABLISH A
23 RIGHT OF JUDICIAL REVIEW.

24 REVISOR'S NOTE: This section is new language derived without substantive
25 change from former Art. 41, § 4-511B.

26 In subsection (b)(2) of this section, the reference to a right of "judicial
27 review" is substituted for the former reference to a right of "appeal" for
28 accuracy. See, e.g., Md. Rule 7-201.

29 Also in subsection (b)(2) of this section, the reference to "establish[ing]" a
30 right of judicial review is added to state expressly that which was formerly
31 only implied in the reference to a "right of [judicial review]".

32 Defined terms: "Commission" § 7-101

33 "Division of Parole and Probation" § 1-101

34 "Parole" § 7-101

35 "Parolee" § 7-101

1 7-403. CONVICTION OF CRIME COMMITTED WHILE ON PAROLE.

2 (A) IN STATE.

3 IF A PAROLEE IS CONVICTED OF A CRIME COMMITTED WHILE ON PAROLE AND
4 IS SENTENCED TO AN ADDITIONAL TERM OF IMPRISONMENT IN ANY CORRECTIONAL
5 FACILITY IN THIS STATE, THE NEW SENTENCE SHALL RUN CONSECUTIVE TO THE
6 TIME TO BE SERVED ON THE ORIGINAL TERM UNLESS THE JUDGE IMPOSING THE
7 NEW SENTENCE EXPRESSLY ORDERS OTHERWISE.

8 (B) OUT-OF-STATE.

9 IF A PAROLEE IS CONVICTED IN ANOTHER STATE OF A CRIME COMMITTED
10 WHILE ON PAROLE AND IS SENTENCED TO SERVE A TERM OF IMPRISONMENT IN A
11 CORRECTIONAL FACILITY IN THE OTHER STATE, THE COMMISSION SHALL FILE WITH
12 THE MANAGING OFFICIAL OF THE CORRECTIONAL FACILITY IN THE OTHER STATE A
13 DECLARATION OF VIOLATION OF PAROLE TO SERVE AS A DETAINER ON THE
14 PAROLEE'S RELEASE FROM THE CORRECTIONAL FACILITY.

15 REVISOR'S NOTE: This section is new language derived without substantive
16 change from former Art. 41, § 4-517.

17 In subsection (a) of this section, the reference to a "term of imprisonment"
18 is substituted for the former reference to a "period of incarceration" for
19 consistency throughout this article. See General Revisor's Note to this
20 article.

21 In subsection (b) of this section, the reference to a parolee who is
22 "sentenced to serve a term of imprisonment in a correctional facility in the
23 other state" is substituted for the former reference to a parolee who "may
24 be confined in penalty thereof" for clarity.

25 Defined terms: "Commission" § 7-101

26 "Correctional facility" § 1-101

27 "Managing official" § 1-101

28 "Parole" § 7-101

29 "Parolee" § 7-101

30 "State" § 1-101

31 SUBTITLE 5. MANDATORY SUPERVISION.

32 7-501. RELEASE ON MANDATORY SUPERVISION.

33 THE DIVISION OF CORRECTION SHALL GRANT A CONDITIONAL RELEASE FROM
34 CONFINEMENT TO AN INMATE WHO:

35 (1) IS SERVING A TERM OF CONFINEMENT OF MORE THAN 12 MONTHS;

36 (2) WAS SENTENCED ON OR AFTER JULY 2, 1970, TO THE JURISDICTION
37 OF THE DIVISION OF CORRECTION; AND

1 (3) HAS SERVED THE TERM OR TERMS, LESS DIMINUTION CREDIT
2 AWARDED UNDER TITLE 3, SUBTITLE 7 AND TITLE 11, SUBTITLE 5 OF THIS ARTICLE.

3 REVISOR'S NOTE: This section is new language derived without substantive
4 change from the first sentence of former Art. 41, § 4-501(13).

5 In the introductory language of this section, the requirement that "[t]he
6 Division of Correction shall grant" a conditional release from confinement
7 to an inmate under the specified circumstances is added to state expressly
8 that which was only implied in the former law, i.e., the Division of
9 Correction is the entity that is responsible for granting the conditional
10 release an inmate is entitled, under the specified circumstances, to be
11 granted the conditional release.

12 Also in the introductory language of this section, the reference to
13 "confinement" is substituted for the former reference to "imprisonment" for
14 consistency within this section and throughout this article. See General
15 Revisor's Note to this article.

16 For a revision of the remainder of former Art. 41, § 4-501(13), see §
17 7-101(g) of this title.

18 Defined terms: "Division of Correction" § 1-101

19 "Inmate" § 1-101

20 7-502. LEGAL CUSTODY.

21 (A) IN GENERAL.

22 AN INDIVIDUAL ON MANDATORY SUPERVISION REMAINS IN LEGAL CUSTODY
23 UNTIL THE EXPIRATION OF THE INDIVIDUAL'S FULL TERM.

24 (B) APPLICABILITY OF LAWS, RULES, REGULATIONS, AND CONDITIONS
25 RELATING TO PAROLEES.

26 AN INDIVIDUAL ON MANDATORY SUPERVISION IS SUBJECT TO ALL LAWS,
27 RULES, REGULATIONS, AND CONDITIONS THAT APPLY TO PAROLEES.

28 REVISOR'S NOTE: This section is new language derived without substantive
29 change from former Art. 41, § 4-612(b) and (c).

30 In subsections (a) and (b) of this section, the references to an "individual"
31 are substituted for the former references to a "person" because only a
32 human being, and not the other entities included in the defined term
33 "person", can be eligible for mandatory supervision. See § 1-101 of this
34 article for the definition of "person".

35 In subsection (a) of this section, the former reference to an individual being
36 "deemed" to remain in legal custody is deleted as surplusage.

1 Defined terms: "Mandatory supervision" § 7-101

2 "Parolee" § 7-101

3 7-503. WRITTEN ORDER; RESTITUTION.

4 (A) WRITTEN ORDER.

5 THE DIVISION OF CORRECTION SHALL ISSUE A WRITTEN ORDER THAT
6 SPECIFIES THE TERMS AND CONDITIONS THAT MUST BE MET FOR AN INDIVIDUAL
7 ON MANDATORY SUPERVISION TO SERVE THE REMAINDER OF THE INDIVIDUAL'S
8 TERM OUTSIDE A CORRECTIONAL FACILITY.

9 (B) RESTITUTION.

10 IF A COURT PREVIOUSLY ORDERED AN INDIVIDUAL TO PAY RESTITUTION AS A
11 PART OF A SENTENCE OR AS A CONDITION OF PROBATION, THE INDIVIDUAL SHALL
12 BE REQUIRED TO MAKE RESTITUTION PAYMENTS WHILE UNDER MANDATORY
13 SUPERVISION AS A CONDITION OF MANDATORY SUPERVISION.

14 REVISOR'S NOTE: This section is new language derived without substantive
15 change from former Art. 41, § 4-612(a).

16 In subsections (a) and (b) of this section, the references to an "individual"
17 are substituted for the former references to a "person" because only a
18 human being, and not the other entities included in the defined term
19 "person", can be eligible for mandatory supervision. See § 1-101 of this
20 article for the definition of "person".

21 In subsection (a) of this section, the reference to the "Division of
22 Correction" is added to state expressly that which was only implied in the
23 former law, *i.e.*, the Division of Correction is the entity that is responsible
24 for issuing the written order.

25 Also in subsection (a) of this section, the former reference to serving the
26 remainder of the individual's term outside "the confines of" a correctional
27 facility is deleted as implicit in the reference to serving the remainder of
28 the individual's term "outside" a correctional facility.

29 Defined terms: "Correctional facility" § 1-101

30 "Division of Correction" § 1-101

31 "Mandatory supervision" § 7-101

32 7-504. REVOCATION OF MANDATORY SUPERVISION.

33 (A) DIMINUTION CREDITS PREVIOUSLY AWARDED.

34 THE COMMISSIONER PRESIDING AT AN INDIVIDUAL'S MANDATORY
35 SUPERVISION REVOCATION HEARING MAY REVOKE ANY OR ALL OF THE DIMINUTION
36 CREDITS PREVIOUSLY EARNED BY THE INDIVIDUAL ON THE INDIVIDUAL'S TERM OF
37 CONFINEMENT.

1 (B) NEW DIMINUTION CREDITS.

2 AN INMATE MAY NOT BE AWARDED ANY NEW DIMINUTION CREDITS AFTER THE
3 INMATE'S MANDATORY SUPERVISION HAS BEEN REVOKED.

4 REVISOR'S NOTE: This section is new language derived without substantive
5 change from former Art. 41, § 4-612(e) and (f).

6 In subsection (a) of this section, the reference to the commissioner
7 presiding "at an individual's mandatory supervision revocation" hearing is
8 added to state expressly that which was only implied in the former law.

9 Also in subsection (a) of this section, the reference to a revocation "hearing"
10 is substituted for the former reference to revocation "proceedings" for
11 accuracy.

12 Also in subsection (a) of this section, the former reference to revoking
13 diminution credits "in the revocation [hearing]" is deleted as implicit.

14 Also in subsection (a) of this section, the reference to authority to "revoke"
15 diminution credits is substituted for the former reference to authority to
16 "rescind" diminution credits for consistency with §§ 3-709 and 11-507 of
17 this article.

18 In subsection (b) of this section, the prohibition against "award[ing]"
19 diminution credits to an inmate is substituted for the former prohibition
20 against an inmate "earn[ing]" diminution credits for consistency with §§
21 3-709 and 11-507 of this article.

22 The Correctional Services Article Review Committee notes, for
23 consideration by the General Assembly, that subsection (b) of this section
24 seems to establish a prohibition against awarding an inmate diminution
25 credits on any sentence after mandatory supervision has been revoked.
26 However, the Committee assumes that subsection (b) was intended to
27 apply only to the sentence or sentences for which the inmate was awarded
28 diminution credits prior to release on mandatory supervision and not to a
29 new sentence for a crime committed while the inmate was on mandatory
30 supervision. The General Assembly may wish to amend subsection (b) to
31 state expressly that an inmate may not be awarded any diminution credits
32 "on the sentence or sentences for which the individual was awarded
33 diminution credits prior to release on mandatory supervision". The
34 General Assembly may also wish to clarify how good conduct credits should
35 be calculated for a new sentence for a crime committed while an inmate
36 was on mandatory supervision, depending on whether all or part of the
37 new sentence runs concurrent with or consecutive to the sentence or
38 sentences for which the inmate was awarded diminution credits before
39 release on mandatory supervision.

40 Defined terms: "Commissioner" § 7-101

41 "Inmate" § 1-101

1 "Mandatory supervision" § 7-101

2 7-505. RESPONSIBILITIES BEFORE RELEASE.

3 (A) DUTIES OF DIVISION OF CORRECTION AND DIVISION OF PAROLE AND
4 PROBATION.

5 AT LEAST 60 DAYS BEFORE THE DAY THAT AN INMATE IS SCHEDULED TO BE
6 RELEASED ON MANDATORY SUPERVISION, THE DIVISION OF PAROLE AND
7 PROBATION AND THE DIVISION OF CORRECTION SHALL PERFORM THE SAME DUTIES
8 THAT ARE PERFORMED FOR A PAROLE RELEASE.

9 (B) NOTICE BY DEPARTMENT TO VICTIM OF CRIME OF VIOLENCE.

10 IF AN INMATE WHO WAS CONVICTED OF A CRIME OF VIOLENCE AS DEFINED IN
11 ARTICLE 27, § 643B OF THE CODE IS RELEASED ON MANDATORY SUPERVISION AND
12 THE VICTIM MADE A WRITTEN REQUEST FOR NOTIFICATION UNDER § 7-801(B)(1)(II)
13 OF THIS TITLE OR FILED A NOTIFICATION REQUEST FORM UNDER ARTICLE 27, § 770
14 OF THE CODE, THE DEPARTMENT SHALL NOTIFY THE VICTIM:

15 (1) IF A WARRANT OR SUBPOENA IS ISSUED BY THE COMMISSION FOR
16 AN ALLEGED VIOLATION OF A CONDITION OF MANDATORY SUPERVISION;

17 (2) IF THE INDIVIDUAL HAS BEEN FOUND GUILTY OR NOT GUILTY OF
18 VIOLATING A CONDITION OF MANDATORY SUPERVISION; AND

19 (3) OF ANY PUNISHMENT IMPOSED FOR THE INDIVIDUAL'S VIOLATION
20 OF A CONDITION OF MANDATORY SUPERVISION.

21 REVISOR'S NOTE: This section is new language derived without substantive
22 change from former Art. 41, § 4-612(g) and (i).

23 In subsection (a) of this section, the reference to the "day that an individual
24 is scheduled to be released on mandatory supervision" is substituted for
25 the former reference to the "scheduled mandatory supervision release" for
26 clarity and accuracy.

27 Also in subsection (a) of this section, the word "performed" is substituted
28 for the former word "completed" for consistency within subsection (a) of
29 this section.

30 Also in subsection (a) of this section, the former requirement that the
31 Division of Correction and Division of Parole and Probation perform the
32 same duties that are "currently" performed for parole release is deleted as
33 implicit.

34 In subsection (b)(1) of this section, the reference to a violation of "a
35 condition of" mandatory supervision is added to state expressly that which
36 was only implied in the former reference to a violation of "mandatory
37 supervision".

1 In subsection (b)(3) of this section, the reference to a violation "of a
2 condition of mandatory supervision" is added to state expressly that which
3 was only implied in the former reference to a "violation".

4 The Correctional Services Article Review Committee notes, for
5 consideration by the General Assembly, that there is a reference to a "crime
6 of violence as defined in Article 27, § 643B of the Code" in the introductory
7 language of subsection (b) of this section. This reference is narrower in
8 scope than the references to a "violent crime" in other provisions of this
9 title. The term "violent crime" is defined in § 7-101 of this article to mean
10 "a crime of violence as defined in Article 27, § 643B of the Code" or
11 "burglary in the first, second, or third degree". The General Assembly may
12 wish to substitute the defined term "violent crime" for the reference to "a
13 crime of violence as defined in Article 27, § 643B of the Code" in the
14 introductory language of subsection (b) of this section.

15 The Correctional Services Article Review Committee also notes, for
16 consideration by the General Assembly, that the meaning of the reference
17 to a "request for notification under § 7-801(b)(1)(ii) of this title" in the
18 introductory language of subsection (b) of this section is unclear. The
19 Committee is uncertain as to whether this means a generic "request for
20 notification", a specific "request for notification of a parole hearing", or a
21 specific "request for notification of a violation of mandatory supervision".
22 The General Assembly may wish to clarify this issue. For a more detailed
23 discussion of this issue, see § 7-801(b)(1)(ii) of this title and accompanying
24 Revisor's Note.

25 Defined terms: "Commission" § 7-101

26 "Department" § 1-101

27 "Division of Correction" § 1-101

28 "Division of Parole and Probation" § 1-101

29 "Inmate" § 1-101

30 "Mandatory supervision" § 7-101

31 7-506. DELIVERY OF INMATE TO STATE OR FEDERAL AUTHORITY.

32 THIS SUBTITLE DOES NOT PREVENT THE DELIVERY OF AN INMATE TO A STATE
33 OR FEDERAL AUTHORITY THAT IS ENTITLED TO THE INMATE.

34 REVISOR'S NOTE: This section is new language derived without substantive
35 change from former Art. 41, § 4-612(h).

36 Defined term: "Inmate" § 1-101

37 SUBTITLE 6. COMMUTATION OF SENTENCE; PARDON.

38 7-601. POWER OF GOVERNOR.

39 (A) IN GENERAL.

1 ON GIVING THE NOTICE REQUIRED BY THE CONSTITUTION, THE GOVERNOR
2 MAY:

3 (1) COMMUTE OR CHANGE A SENTENCE OF DEATH INTO A PERIOD OF
4 CONFINEMENT THAT THE GOVERNOR CONSIDERS EXPEDIENT;

5 (2) PARDON AN INDIVIDUAL CONVICTED OF A CRIME SUBJECT TO ANY
6 CONDITIONS THE GOVERNOR REQUIRES; OR

7 (3) REMIT ANY PART OF A SENTENCE OF IMPRISONMENT SUBJECT TO
8 ANY CONDITIONS THE GOVERNOR REQUIRES, WITHOUT THE REMISSION OPERATING
9 AS A FULL PARDON.

10 (B) WRITTEN ORDER.

11 (1) A PARDON OR COMMUTATION OF SENTENCE SHALL BE EVIDENCED
12 BY A WRITTEN EXECUTIVE ORDER SIGNED BY THE GOVERNOR UNDER THE GREAT
13 SEAL.

14 (2) AN ORDER GRANTING A PARDON OR CONDITIONAL PARDON SHALL
15 CLEARLY INDICATE ON ITS FACE WHETHER IT IS A PARTIAL OR FULL PARDON.

16 (C) PRESUMPTION OF VALID CONVICTION.

17 THERE IS A PRESUMPTION THAT THE GRANTEE OF A PARDON WAS LAWFULLY
18 AND PROPERLY CONVICTED OF A CRIME AGAINST THE STATE UNLESS THE ORDER
19 GRANTING THE PARDON STATES THAT THE GRANTEE HAS BEEN SHOWN
20 CONCLUSIVELY TO HAVE BEEN CONVICTED IN ERROR.

21 REVISOR'S NOTE: This section is new language derived without substantive
22 change from former Art. 41, § 4-513, the second clause of the first sentence
23 of § 4-501(1), the second sentence of § 4-501(1), the second clause of §
24 4-501(2), the second sentence of § 4-501(3), and the second clause of the
25 first sentence of § 4-501(4).

26 Defined terms: "Commutation of sentence" § 7-101

27 "Conditional pardon" § 7-101

28 "Pardon" § 7-101

29 "Partial pardon" § 7-101

30 7-602. VIOLATION OF CONDITIONAL PARDON.

31 (A) GOVERNOR AS SOLE JUDGE.

32 UNLESS THE ORDER GRANTING A PARDON PROVIDES OTHERWISE, THE
33 GOVERNOR IS THE SOLE JUDGE OF WHETHER A CONDITION OF A CONDITIONAL
34 PARDON HAS BEEN VIOLATED.

35 (B) DETERMINATION NOT SUBJECT TO JUDICIAL REVIEW.

1 A DETERMINATION BY THE GOVERNOR THAT A CONDITION OF A CONDITIONAL
2 PARDON HAS BEEN VIOLATED BY THE GRANTEE IS FINAL AND NOT SUBJECT TO
3 REVIEW BY ANY COURT OF THE STATE.

4 REVISOR'S NOTE: This section is new language derived without substantive
5 change from former Art. 41, § 4-514.

6 In subsections (a) and (b) of this section, the former phrase "[i]n any case in
7 which the Governor may issue a conditional pardon to any person" is
8 deleted as implicit.

9 Defined terms: "Conditional pardon" § 7-101

10 "Pardon" § 7-101

11 7-603. EFFECT OF VIOLATION OF CONDITIONAL PARDON.

12 UNLESS THE GOVERNOR ORDERS OTHERWISE, IF THE GOVERNOR REVOKES A
13 CONDITIONAL PARDON FOR A BREACH OF ANY OF ITS CONDITIONS, THE INDIVIDUAL
14 RELEASED ON THE CONDITIONAL PARDON:

15 (1) SHALL SERVE THE UNSERVED PORTION OF THE SENTENCE
16 ORIGINALLY IMPOSED; AND

17 (2) MAY NOT BE GRANTED CREDIT FOR SERVING ANY PORTION OF THE
18 ORIGINAL SENTENCE DURING THE TIME THAT THE INDIVIDUAL WAS RELEASED
19 UNDER THE CONDITIONAL PARDON.

20 REVISOR'S NOTE: This section is new language derived without substantive
21 change from former Art. 41, § 4-515.

22 In item (2) of this section, the prohibition against "grant[ing] credit" for the
23 time that an individual was released under a conditional pardon is
24 substituted for the former vague prohibition against "consider[ing]" any
25 portion of the time that an individual was released under a conditional
26 pardon for clarity and for consistency with § 7-401(d)(1) of this title.

27 Defined term: "Conditional pardon" § 7-101

28 SUBTITLE 7. PAYMENT OF RESTITUTION AND FEES.

29 7-701. RESTITUTION.

30 (A) RESTITUTION AS CONDITION OF PAROLE.

31 IF THE COMMISSION GRANTS PAROLE TO AN INDIVIDUAL WHOM A COURT HAS
32 ORDERED TO MAKE RESTITUTION AS PART OF A SENTENCE OR AS A CONDITION OF
33 PROBATION, THE COMMISSION SHALL REQUIRE THE INDIVIDUAL TO MAKE
34 RESTITUTION PAYMENTS WHILE ON PAROLE AS A CONDITION OF PAROLE.

35 (B) EFFECT OF PARDON, COMMUTATION, OR PAROLE.

1 EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, A PARDON,
2 PARTIAL PARDON, CONDITIONAL PARDON, COMMUTATION OF SENTENCE, OR
3 PAROLE DOES NOT AFFECT ANY JUDGMENT ENTERED UNDER ARTICLE 27, § 807 OF
4 THE CODE.

5 (C) EXCEPTION.

6 IF THE GOVERNOR ORDERS A PARDON AND STATES AS A PART OF THE ORDER
7 THAT THE DEFENDANT WAS CONVICTED IN ERROR, THE ORDER DISCHARGES ANY
8 JUDGMENT AGAINST THE DEFENDANT UNDER ARTICLE 27, § 807 OF THE CODE.

9 REVISOR'S NOTE: This section is new language derived without substantive
10 change from former Art. 41, § 4-518.

11 Defined terms: "Commission" § 7-101

12 "Commutation of sentence" § 7-101

13 "Conditional pardon" § 7-101

14 "Pardon" § 7-101

15 "Parole" § 7-101

16 "Partial pardon" § 7-101

17 7-702. FEES.

18 (A) DEFINITION.

19 IN THIS SECTION, "SUPERVISEE" MEANS AN INDIVIDUAL SUPERVISED BY THE
20 DIVISION OF PAROLE AND PROBATION FOR THE COMMISSION.

21 (B) MONTHLY FEE AS CONDITION OF SUPERVISION.

22 UNLESS A SUPERVISEE IS EXEMPTED BY THE COMMISSION UNDER
23 SUBSECTION (D) OF THIS SECTION, THE COMMISSION SHALL ASSESS A MONTHLY FEE
24 OF \$40 AS A CONDITION OF SUPERVISION FOR EACH SUPERVISEE.

25 (C) PAYMENT.

26 (1) THE FEE ASSESSED UNDER SUBSECTION (B) OF THIS SECTION SHALL
27 BE PAID TO THE DIVISION OF PAROLE AND PROBATION.

28 (2) THE DIVISION OF PAROLE AND PROBATION SHALL PAY ALL MONEY
29 COLLECTED UNDER THIS SECTION INTO THE GENERAL FUND OF THE STATE.

30 (D) EXEMPTIONS.

31 THE COMMISSION MAY EXEMPT A SUPERVISEE WHOLLY OR PARTLY FROM THE
32 FEE ASSESSED UNDER SUBSECTION (B) OF THIS SECTION IF:

33 (1) THE SUPERVISEE HAS DILIGENTLY ATTEMPTED BUT HAS BEEN
34 UNABLE TO OBTAIN EMPLOYMENT THAT PROVIDES SUFFICIENT INCOME FOR THE
35 SUPERVISEE TO PAY THE FEE;

1 (2) (I) THE SUPERVISEE IS A STUDENT IN A SCHOOL, COLLEGE, OR
2 UNIVERSITY OR IS ENROLLED IN A COURSE OF VOCATIONAL OR TECHNICAL
3 TRAINING DESIGNED TO PREPARE THE SUPERVISEE FOR GAINFUL EMPLOYMENT;
4 AND

5 (II) THE INSTITUTION IN WHICH THE SUPERVISEE IS ENROLLED
6 SUPPLIES CERTIFICATION OF STUDENT STATUS TO THE COMMISSION;

7 (3) THE SUPERVISEE HAS A DISABILITY THAT LIMITS POSSIBLE
8 EMPLOYMENT, AS DETERMINED BY A PHYSICAL OR PSYCHOLOGICAL EXAMINATION
9 THAT THE COMMISSION ACCEPTS OR ORDERS;

10 (4) THE SUPERVISEE IS RESPONSIBLE FOR THE SUPPORT OF
11 DEPENDENTS AND THE PAYMENT OF THE FEE CONSTITUTES AN UNDUE HARDSHIP
12 ON THE SUPERVISEE; OR

13 (5) OTHER EXTENUATING CIRCUMSTANCES EXIST.

14 (E) FEE IN ADDITION TO COURT COSTS AND FINES.

15 THE FEE ASSESSED UNDER SUBSECTION (B) OF THIS SECTION IS IN ADDITION
16 TO COURT COSTS AND FINES.

17 (F) FAILURE TO PAY FEE.

18 (1) IF A SUPERVISEE DOES NOT COMPLY WITH THE FEE REQUIREMENT:

19 (I) THE DIVISION OF PAROLE AND PROBATION SHALL NOTIFY THE
20 COMMISSION; AND

21 (II) THE COMMISSION MAY REVOKE PAROLE OR MANDATORY
22 SUPERVISION.

23 (2) THE COMMISSION SHALL CONDUCT A HEARING TO DETERMINE IF
24 THERE ARE SUFFICIENT GROUNDS TO FIND THE SUPERVISEE IN VIOLATION OF THE
25 FEE REQUIREMENT.

26 (3) AT A HEARING UNDER THIS SUBSECTION, THE COMMISSION MAY
27 CONSIDER:

28 (I) ANY MATERIAL CHANGE IN THE SUPERVISEE'S FINANCIAL
29 STATUS;

30 (II) GOOD FAITH EFFORTS OF THE SUPERVISEE TO PAY THE FEE;
31 AND

32 (III) ALTERNATIVE MEANS TO ASSURE PAYMENT OF THE FEE
33 BEFORE THE PERIOD OF SUPERVISION ENDS.

34 (G) COST OF ALCOHOL OR DRUG ABUSE TESTING.

1 (1) IN ADDITION TO THE FEE ASSESSED UNDER SUBSECTION (B) OF THIS
2 SECTION, THE DIVISION OF PAROLE AND PROBATION MAY REQUIRE A SUPERVISEE
3 TO PAY FOR DRUG OR ALCOHOL ABUSE TESTING THAT THE COMMISSION ORDERS.

4 (2) IF A SUPERVISEE FAILS TO PAY FOR DRUG OR ALCOHOL ABUSE
5 TESTING AS REQUIRED BY THE DIVISION OF PAROLE AND PROBATION, THE
6 COMMISSION MAY REVOKE PAROLE OR MANDATORY SUPERVISION.

7 (3) IF THE DIVISION OF PAROLE AND PROBATION DETERMINES THAT
8 ANY OF THE CRITERIA SPECIFIED IN SUBSECTION (D) OF THIS SECTION ARE
9 APPLICABLE, THE DIVISION MAY EXEMPT A SUPERVISEE WHOLLY OR PARTLY FROM
10 A PAYMENT FOR DRUG OR ALCOHOL ABUSE TESTING.

11 (H) GUIDELINES; INVESTIGATION.

12 THE DIVISION OF PAROLE AND PROBATION SHALL:

13 (1) ADOPT GUIDELINES FOR COLLECTING THE SUPERVISION FEE;

14 (2) ADOPT GUIDELINES FOR COLLECTING THE COST OF DRUG AND
15 ALCOHOL ABUSE TESTING; AND

16 (3) INVESTIGATE REQUESTS FOR AN EXEMPTION FROM PAYMENT IF
17 THE COMMISSION REQUESTS AN INVESTIGATION.

18 (I) RECORDS; REPORT.

19 THE DIVISION OF PAROLE AND PROBATION SHALL:

20 (1) KEEP RECORDS OF ALL PAYMENTS BY EACH SUPERVISEE; AND

21 (2) REPORT DELINQUENCIES TO THE COMMISSION.

22 REVISOR'S NOTE: This section is new language derived without substantive
23 change from former Art. 41, § 4-519.

24 In subsection (b) of this section, the former phrase "whenever an inmate is
25 placed under the supervision of the Division of Parole and Probation" is
26 deleted as included in the defined term "supervisee".

27 In subsection (d)(3) of this section, the reference to a "disability" is
28 substituted for the former, antiquated reference to a "handicap".

29 In subsection (f)(2) of this section, the reference to a violation "of the fee
30 requirement" is added to state expressly that which was formerly only
31 implied in the reference to a "violation".

32 Subsection (g)(2) of this section is revised using language that is consistent
33 with subsection (f)(2) of this section.

34 In subsection (h)(1) of this section, the reference to the "supervision" fee is

1 added to state expressly that which was formerly only implied in the
2 reference to the "fee".

3 In subsection (h)(2) of this section, the reference to the cost of drug and
4 alcohol "abuse" testing is added for consistency with subsection (g) of this
5 section.

6 Defined terms: "Commission" § 7-101

7 "Division of Parole and Probation" § 1-101

8 "Mandatory supervision" § 7-101

9 "Parole" § 7-101

10 SUBTITLE 8. VICTIMS' RIGHTS; NOTICE TO SENTENCING JUDGE.

11 7-801. PAROLE RELEASE HEARING.

12 (A) "VICTIM" DEFINED.

13 IN THIS SECTION, "VICTIM" MEANS:

14 (1) AN INDIVIDUAL WHO SUFFERS PERSONAL PHYSICAL INJURY OR
15 DEATH AS A DIRECT RESULT OF A CRIME;

16 (2) A VICTIM OF CHILD ABUSE UNDER ARTICLE 27, § 35C OF THE CODE;

17 (3) A VICTIM OF A VIOLENT CRIME; OR

18 (4) IF THE VICTIM IS DECEASED, DISABLED, OR A MINOR, A DESIGNATED
19 FAMILY MEMBER OR OTHER REPRESENTATIVE OF THE VICTIM.

20 (B) NOTICE TO VICTIM; DESIGNATION OF REPRESENTATIVE TO RECEIVE
21 NOTICE.

22 (1) AT LEAST 90 DAYS BEFORE AN INMATE'S PAROLE RELEASE HEARING,
23 THE DEPARTMENT SHALL NOTIFY THE VICTIM OR THE VICTIM'S DESIGNATED
24 REPRESENTATIVE IN WRITING, DIRECTED TO THE MOST CURRENT ADDRESS ON
25 FILE, THAT THE PAROLE RELEASE HEARING HAS BEEN SCHEDULED IF:

26 (I) THE VICTIM FILED A NOTIFICATION REQUEST FORM UNDER
27 ARTICLE 27, § 770 OF THE CODE; OR

28 (II) THE VICTIM MAKES A WRITTEN REQUEST TO THE
29 DEPARTMENT FOR NOTIFICATION AND MAINTAINS A CURRENT ADDRESS ON FILE
30 WITH THE DEPARTMENT.

31 (2) THE VICTIM MAY DESIGNATE IN WRITING TO THE DEPARTMENT THE
32 NAME AND ADDRESS OF A REPRESENTATIVE WHO IS A RESIDENT OF THE STATE TO
33 RECEIVE NOTICE FOR THE VICTIM.

34 (C) UPDATED VICTIM IMPACT STATEMENT.

1 (1) NOT LATER THAN 30 DAYS AFTER THE DATE OF THE DEPARTMENT'S
2 NOTICE UNDER SUBSECTION (B) OF THIS SECTION, THE VICTIM OF A VIOLENT CRIME
3 MAY SUBMIT TO THE DEPARTMENT A WRITTEN REQUEST THAT THE DIVISION OF
4 PAROLE AND PROBATION BE REQUIRED TO COMPLETE AN UPDATED VICTIM IMPACT
5 STATEMENT.

6 (2) IF THE VICTIM SUBMITS A REQUEST AS AUTHORIZED BY PARAGRAPH
7 (1) OF THIS SUBSECTION, THE DEPARTMENT SHALL DIRECT THE DIVISION OF
8 PAROLE AND PROBATION TO:

9 (I) COMPLETE THE UPDATED STATEMENT AT LEAST 30 DAYS
10 BEFORE THE PAROLE RELEASE HEARING; AND

11 (II) SEND PROMPTLY THE UPDATED VICTIM IMPACT STATEMENT
12 TO THE COMMISSION.

13 (D) RECOMMENDATION TO COMMISSION; REQUEST FOR SPECIAL CONDITION.

14 A VICTIM MAY:

15 (1) AT LEAST 30 DAYS BEFORE THE PAROLE RELEASE HEARING:

16 (I) MAKE A WRITTEN RECOMMENDATION TO THE COMMISSION ON
17 THE ADVISABILITY OF RELEASING THE INMATE ON PAROLE; AND

18 (II) REQUEST THAT THE INMATE BE PROHIBITED FROM HAVING
19 ANY CONTACT WITH THE VICTIM AS A CONDITION OF PAROLE, MANDATORY
20 SUPERVISION, WORK RELEASE, OR OTHER ADMINISTRATIVE RELEASE; AND

21 (2) REQUEST A MEETING WITH A COMMISSIONER.

22 (E) REVIEW BY INMATE.

23 THE COMMISSION SHALL MAKE AN UPDATED VICTIM IMPACT STATEMENT AND
24 A VICTIM'S WRITTEN RECOMMENDATION AVAILABLE FOR REVIEW BY THE INMATE
25 OR THE INMATE'S REPRESENTATIVE UNDER § 7-303(B) OF THIS TITLE.

26 (F) CONSIDERATION BY COMMISSION.

27 THE COMMISSION SHALL CONSIDER AN UPDATED VICTIM IMPACT STATEMENT
28 OR VICTIM'S WRITTEN RECOMMENDATION AT THE PAROLE RELEASE HEARING.

29 (G) ORAL TESTIMONY.

30 IF A VICTIM REQUESTED AN OPEN HEARING UNDER § 7-304 OF THIS TITLE, THE
31 VICTIM MAY PRESENT ORAL TESTIMONY AT THE INMATE'S PAROLE RELEASE
32 HEARING IN A MANNER ESTABLISHED IN REGULATIONS ADOPTED BY THE
33 COMMISSION.

34 (H) NOTICE OF DECISION.

1 THE DEPARTMENT SHALL NOTIFY PROMPTLY THE VICTIM OR THE VICTIM'S
2 DESIGNATED REPRESENTATIVE OF THE DECISION OF THE COMMISSION REGARDING
3 PAROLE FOR THE INMATE.

4 REVISOR'S NOTE: This section is new language derived without substantive
5 change from former Art. 41, § 4-504(d).

6 In subsection (a)(1) of this section, the reference to an "individual" is
7 substituted for the former reference to a "person" because only a human
8 being, and not the other entities included in the defined term "person", can
9 suffer personal physical injury or death.

10 The Correctional Services Article Review Committee notes, for
11 consideration by the General Assembly, that the reference to a "request ...
12 for notification" in subsection (b)(1)(ii) of this section seems to be a
13 reference to a request for notification "of a parole hearing". However,
14 subsection (b)(1)(ii) is cited as a cross-reference in §§ 7-304(a)(1),
15 7-505(b), and 7-804 of this title. These three provisions establish,
16 respectively, that a "request for notification under § 7-801(b)(1)(ii) of this
17 [sub]title" is a condition precedent to holding an open parole hearing (§
18 7-304(a)(1)), notifying a victim of an alleged violation of mandatory
19 supervision, a violation of mandatory supervision, or any punishment
20 imposed for a violation of mandatory supervision (§ 7-505(b)), and
21 notifying a victim of an alleged violation of parole, a violation of parole,
22 and any punishment imposed for a violation of parole (§ 7-804). Thus, each
23 of these three provisions seems to require a victim to file a request for
24 notification "of a parole hearing" as a condition precedent to receiving
25 notice in each of the specified circumstances. The General Assembly may
26 wish to address these inconsistencies by amending subsection (b)(1)(ii) of
27 this section so as to require a request for notification "of a parole hearing"
28 and amending §§ 7-304(a)(1), 7-505(b), and 7-804 of this title to require,
29 respectively, a request for notification "of a parole hearing", a request for
30 notification "of a violation of mandatory supervision", and a request for
31 notification "of a violation of parole". Alternatively, the General Assembly
32 may wish to address these inconsistencies by amending §§ 7-304(a)(1),
33 7-505(b), and 7-804 of this title so that they each refer to a generic
34 "request for notification". See, e.g., § 7-805(b) of this subtitle (which
35 requires a victim to file a "request ... for notification" as a condition
36 precedent to receiving notice of a commutation of sentence, pardon, or
37 remission of sentence).

38 The Correctional Services Article Review Committee also notes, for
39 consideration by the General Assembly, that subsection (c)(1) of this
40 section applies only to a "victim of a violent crime". In contrast, the other
41 provisions of this section apply to any "victim". The term "victim" is
42 defined broadly in subsection (a) of this section. The General Assembly
43 may wish to delete the reference to a victim "of violent" crime in subsection
44 (c)(1) of this section for consistency.

1 In subsection (c)(2) of this section, the phrase "[i]f the victim submits a
2 request as authorized by paragraph (1) of this subsection" is added to state
3 expressly that which was only implied in the former law.

4 The Correctional Services Article Review Committee also notes, for
5 consideration by the General Assembly, that the meaning of the reference,
6 in subsection (d)(1)(ii) of this section, to a victim's right to request that an
7 inmate be prohibited from having any contact with the victim as a
8 condition of "work release, or other administrative release" is unclear. The
9 Commission has no authority to impose a condition on work release or
10 other administrative release. The General Assembly may wish to delete
11 the reference to "work release, or other administrative release" from
12 subsection (d)(1)(ii) of this section. Correspondingly, the General Assembly
13 may also wish to amend appropriate provisions of this article, i.e., those
14 that relate to inmates of State and local correctional facilities who are
15 granted work release and other types of administrative release, to
16 authorize a victim to request that an inmate be prohibited from having
17 contact with the victim as a condition of work release or administrative
18 release.

19 In subsection (e) of this section, the reference to the "inmate's
20 representative" is added for consistency with § 7-303(b) of this title.

21 In subsection (f) of this section, the former phrase "[i]f an updated victim
22 impact statement or recommendation is prepared under this subsection" is
23 deleted as implicit.

24 In subsection (g) of this section, the reference to "a victim [who] request[s]
25 an open hearing" is substituted for the former references to "[a victim] of
26 [a] crime ... [who] requests an open hearing" and "a victim who has filed a
27 notification request form under Article 27, § 770 of the Code ... [and who]
28 requests an open hearing" for consistency with § 7-304 of this article.

29 Also in subsection (g) of this section, the former reference to the victim "or
30 a designated representative" is deleted as included in the defined term
31 "victim".

32 Defined terms: "Commission" § 7-101

33 "Commissioner" § 7-101

34 "Department" § 1-101

35 "Division of Correction" § 1-101

36 "Division of Parole and Probation" § 1-101

37 "Inmate" § 1-101

38 "Mandatory supervision" § 7-101

39 "Parole" § 7-101

40 "Violent crime" § 7-101

41 7-802. NOTICE TO SENTENCING JUDGE OF PAROLE RELEASE HEARING.

42 (A) NOTICE TO SENTENCING JUDGE.

1 IF AN INMATE IS SENTENCED TO THE DIVISION OF CORRECTION AND, AT THE
2 TIME OF SENTENCING, THE SENTENCING JUDGE MAKES A WRITTEN REQUEST FOR
3 NOTIFICATION, THE COMMISSION SHALL:

4 (1) AT LEAST 90 DAYS BEFORE THE PAROLE RELEASE HEARING, NOTIFY
5 THE SENTENCING JUDGE IN WRITING THAT A PAROLE RELEASE HEARING IS
6 SCHEDULED FOR THE INMATE; AND

7 (2) PROMPTLY NOTIFY THE SENTENCING JUDGE OF THE COMMISSION'S
8 FINAL DECISION REGARDING PAROLE FOR THE INMATE.

9 (B) REVIEW BY INMATE OF RECOMMENDATION OF SENTENCING JUDGE.

10 THE COMMISSION SHALL MAKE ANY RECOMMENDATION MADE BY THE
11 SENTENCING JUDGE AT THE TIME OF SENTENCING AVAILABLE FOR REVIEW BY THE
12 INMATE OR THE INMATE'S REPRESENTATIVE UNDER § 7-303(B) OF THIS TITLE.

13 REVISOR'S NOTE: This section is new language derived without substantive
14 change from former Art. 41, § 4-504(e).

15 In subsection (b) of this section, the reference to the "inmate's
16 representative" is added for consistency with § 7-303(b) of this title.

17 Defined terms: "Commission" § 7-101

18 "Division of Correction" § 1-101

19 "Inmate" § 1-101

20 "Parole" § 7-101

21 7-803. NOTICE TO VICTIM OF PREDETERMINED PAROLE RELEASE AGREEMENT.

22 (A) NOTICE TO VICTIM.

23 IF A VICTIM HAS FILED A NOTIFICATION REQUEST FORM UNDER ARTICLE 27, §
24 770 OF THE CODE, THE COMMISSION, IF PRACTICABLE, SHALL NOTIFY THE VICTIM IN
25 WRITING AT LEAST 90 DAYS BEFORE ENTERING INTO OR SIGNING A
26 PREDETERMINED PAROLE RELEASE AGREEMENT WITH AN INMATE.

27 (B) NOTICE PREREQUISITE TO AGREEMENT.

28 THE COMMISSION MAY NOT ENTER INTO A PREDETERMINED PAROLE RELEASE
29 AGREEMENT UNLESS THE COMMISSION HAS NOTIFIED THE VICTIM UNDER
30 SUBSECTION (A) OF THIS SECTION.

31 REVISOR'S NOTE: This section is new language derived without substantive
32 change from former Art. 27, § 700G(d).

33 In subsection (a) of this section, the reference to "signing" a predetermined
34 parole release agreement is substituted for the former reference to
35 "approving" such an agreement for consistency with § 7-205(a)(2) of this
36 title.

1 Defined terms: "Commission" § 7-101

2 "Inmate" § 1-101

3 "Predetermined parole release agreement" § 7-101

4 7-804. NOTICE TO VICTIM OF PAROLE VIOLATION.

5 IF AN INDIVIDUAL WAS CONVICTED OF A VIOLENT CRIME AND THE VICTIM
6 MADE A WRITTEN REQUEST FOR NOTIFICATION UNDER § 7-801(B)(1)(II) OF THIS
7 SUBTITLE OR FILED A NOTIFICATION REQUEST FORM UNDER ARTICLE 27, § 770 OF
8 THE CODE, THE DEPARTMENT SHALL NOTIFY THE VICTIM:

9 (1) THAT A WARRANT OR SUBPOENA WAS ISSUED BY THE COMMISSION
10 FOR THE INDIVIDUAL'S ALLEGED VIOLATION OF A CONDITION OF PAROLE;

11 (2) THAT THE INDIVIDUAL HAS BEEN FOUND GUILTY OR NOT GUILTY OF
12 VIOLATING A CONDITION OF PAROLE; AND

13 (3) OF THE PUNISHMENT IMPOSED ON THE INDIVIDUAL FOR VIOLATING
14 A CONDITION OF PAROLE.

15 REVISOR'S NOTE: This section is new language derived without substantive
16 change from former Art. 41, § 4-511(f).

17 The Correctional Services Article Review Committee notes, for
18 consideration by the General Assembly, that the meaning of the reference
19 to a "request for notification under § 7-801(b)(1)(ii) of this subtitle" in the
20 introductory language of this section is unclear. The Committee is
21 uncertain as to whether this means a generic "request for notification", a
22 specific "request for notification of a parole hearing", or a specific "request
23 for notification of a parole violation". The General Assembly may wish to
24 clarify this issue. For a more detailed discussion of this issue, see §
25 7-801(b)(1)(ii) of this subtitle and accompanying Revisor's Note.

26 In item (1) of this section, the reference to "a condition of " parole is added
27 to state expressly that which was formerly only implied in the reference to
28 "parole" and for consistency with items (2) and (3) of this section.

29 In item (2) of this section, the former reference to an "inmate released on
30 parole" is deleted as implicit in the reference to an "individual [who] has
31 been found guilty or not guilty of violating a condition of parole".

32 In item (3) of this section, the reference to a violation of "a condition of
33 parole" is added to state expressly that which was formerly only implied in
34 the reference to a "violation" and for consistency with items (1) and (2) of
35 this section.

36 Defined terms: "Commission" § 7-101

37 "Department" § 1-101

38 "Parole" § 7-101

39 "Violent crime" § 7-101

1 7-805. NOTICE TO VICTIM OF COMMUTATION, PARDON, OR REMISSION OF SENTENCE.

2 (A) "VICTIM" DEFINED.

3 IN THIS SECTION, "VICTIM" MEANS AN INDIVIDUAL WHO SUFFERS PERSONAL
4 PHYSICAL INJURY OR DEATH AS A DIRECT RESULT OF A CRIME OR, IF THE VICTIM IS
5 DECEASED, A DESIGNATED FAMILY MEMBER OF THE VICTIM.

6 (B) NOTICE TO VICTIM; DESIGNATION OF REPRESENTATIVE.

7 IF THE VICTIM MADE A WRITTEN REQUEST TO THE DEPARTMENT FOR
8 NOTIFICATION AND MAINTAINS A CURRENT ADDRESS ON FILE WITH THE
9 DEPARTMENT OR THE VICTIM FILED A NOTIFICATION REQUEST FORM UNDER
10 ARTICLE 27, § 770 OF THE CODE, THE DEPARTMENT SHALL NOTIFY THE VICTIM OR
11 THE VICTIM'S DESIGNATED REPRESENTATIVE IN WRITING THAT AN INMATE
12 SENTENCED TO THE DIVISION OF CORRECTION IS BEING CONSIDERED FOR A:

13 (1) COMMUTATION OF SENTENCE;

14 (2) PARDON; OR

15 (3) REMISSION OF SENTENCE.

16 (C) VICTIM IMPACT STATEMENT.

17 (1) IF THE INMATE WAS CONVICTED OF A VIOLENT CRIME, THE VICTIM
18 MAY SUBMIT TO THE COMMISSION A VICTIM IMPACT STATEMENT AND
19 RECOMMENDATION.

20 (2) THE COMMISSION SHALL MAKE THE VICTIM IMPACT STATEMENT
21 AND RECOMMENDATION AVAILABLE FOR REVIEW BY THE INMATE OR THE INMATE'S
22 REPRESENTATIVE SUBJECT TO § 7-303(B) OF THIS TITLE.

23 (D) CONSIDERATION BY COMMISSION.

24 IF A VICTIM IMPACT STATEMENT OR RECOMMENDATION IS SUBMITTED UNDER
25 THIS SECTION, THE COMMISSION SHALL CONSIDER THE VICTIM IMPACT STATEMENT
26 OR RECOMMENDATION.

27 (E) MEETING WITH COMMISSIONER.

28 A VICTIM MAY REQUEST A MEETING WITH A COMMISSIONER.

29 (F) NOTIFICATION OF COMMISSION DECISION.

30 THE DEPARTMENT SHALL NOTIFY PROMPTLY THE VICTIM OR THE VICTIM'S
31 DESIGNATED REPRESENTATIVE OF THE COMMISSION'S DECISION.

32 (G) DESIGNATION OF VICTIM'S REPRESENTATIVE.

1 THE VICTIM MAY DESIGNATE IN WRITING TO THE DEPARTMENT THE NAME AND
2 ADDRESS OF A REPRESENTATIVE TO RECEIVE NOTICE FOR THE VICTIM.

3 REVISOR'S NOTE: This section is new language derived without substantive
4 change from former Art. 41, § 4-511A.

5 In subsection (a) of this section, the reference to an "individual" is
6 substituted for the former reference to a "person" because only a human
7 being, and not the other entities included in the defined term "person", can
8 suffer personal physical injury or death.

9 The Correctional Services Article Review Committee notes, for
10 consideration by the General Assembly, that the meaning of the reference
11 to a "request ... for notification" in the introductory language of subsection
12 (b) of this section is unclear. The Committee is uncertain as to whether this
13 means a generic "request for notification" or a specific "request for
14 notification of consideration for commutation, pardon, or remission of
15 sentence". The General Assembly may wish to clarify this issue. For a more
16 detailed discussion of this issue, see § 7-801(b)(1)(ii) of this subtitle and
17 accompanying Revisor's Note.

18 In subsection (c)(1) and (2) of this section, the references to a victim impact
19 statement "and recommendation" are added for consistency with
20 subsection (d) of this section.

21 In subsection (c)(2) of this section, the reference to the "inmate's
22 representative" is added for consistency with § 7-303(b) of this title.

23 Defined terms: "Commission" § 7-101

24 "Commissioner" § 7-101

25 "Commutation of sentence" § 7-101

26 "Department" § 1-101

27 "Division of Correction" § 1-101

28 "Inmate" § 1-101

29 "Pardon" § 7-101

30 "Violent crime" § 7-101

31 TITLE 8. STATE AND LOCAL CORRECTIONAL SYSTEM -- GENERALLY.

32 SUBTITLE 1. STANDARDS FOR CORRECTIONAL FACILITIES.

33 8-101. DEFINITIONS.

34 (A) IN GENERAL.

35 IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

36 REVISOR'S NOTE: This subsection formerly was Art. 41, § 4-401(b)(1).

37 The only changes are in style.

1 (B) APPROVED STANDARDS.

2 "APPROVED STANDARDS" MEANS THE STANDARDS DESCRIBED IN § 8-103(B) OF
3 THIS SUBTITLE.

4 REVISOR'S NOTE: This subsection is new language added to avoid the
5 repetition of the lengthy reference to "the standards described in §
6 8-103(b) of this subtitle".

7 Former Art. 41, § 4-401(b)(8), which defined the term "approved
8 standards", is revised as a substantive provision in § 8-103(b) of this
9 subtitle.

10 (C) COMMISSION.

11 "COMMISSION" MEANS THE MARYLAND COMMISSION ON CORRECTIONAL
12 STANDARDS.

13 REVISOR'S NOTE: This subsection formerly was Art. 41, § 4-401(b)(2).

14 No changes are made.

15 (D) MINIMUM MANDATORY STANDARDS.

16 "MINIMUM MANDATORY STANDARDS" MEANS THE STANDARDS DESCRIBED IN §
17 8-103(A) OF THIS SUBTITLE.

18 REVISOR'S NOTE: This subsection is new language added to avoid the
19 repetition of the lengthy reference to "the standards described in §
20 8-103(a) of this subtitle".

21 Former Art. 41, § 4-401(b)(7), which defined the term "mandatory
22 standards", is revised as a substantive provision in § 8-103(a) of this
23 subtitle.

24 REVISOR'S NOTE TO SECTION: Former Art. 41, § 4-401(b)(4), which defined
25 "municipality", is deleted since that term is not used in this revision. The
26 term "municipal corporation" is used as appropriate throughout this article
27 to conform to the language used in Md. Constitution, Art. XI-E.

28 8-102. LEGISLATIVE FINDINGS.

29 THE GENERAL ASSEMBLY FINDS THAT THERE IS A NEED TO IMPROVE THE
30 METHOD OF ESTABLISHING STANDARDS FOR CORRECTIONAL FACILITIES AND
31 PROGRAMS AND OF INSURING COMPLIANCE WITH THESE STANDARDS TO BETTER
32 PROTECT THE HEALTH, SAFETY, AND WELFARE OF THE PUBLIC BY REDUCING
33 INCIDENTS OF CRIME.

34 REVISOR'S NOTE: This section is new language derived without substantive
35 change from former Art. 41, § 4-401(a).

1 The term "the public" is substituted for the former reference to "Maryland's
2 citizens" for clarity and consistency throughout this article. See General
3 Revisor's Note to this article.

4 The former word "declares" is deleted as redundant of the word "finds" and
5 for consistency with similar provisions in other revised articles of the Code.
6 See, e.g., BR § 3-102 and IN § 7-102.

7 Defined term: "Correctional facility" § 1-101

8 8-103. ESTABLISHMENT OF STANDARDS.

9 (A) MINIMUM MANDATORY STANDARDS.

10 (1) WITH THE ADVICE OF THE COMMISSION, THE SECRETARY SHALL
11 ADOPT REGULATIONS THAT ESTABLISH MINIMUM MANDATORY STANDARDS
12 APPLICABLE TO SECURITY AND INMATE CONTROL, INMATE SAFETY, INMATE FOOD
13 SERVICES, INMATE HOUSING AND SANITATION, INMATE RIGHTS, CLASSIFICATION,
14 HEARINGS, AND ADMINISTRATIVE RECORD KEEPING.

15 (2) THE MINIMUM MANDATORY STANDARDS ADOPTED UNDER
16 PARAGRAPH (1) OF THIS SUBSECTION SHALL APPLY TO ALL STATE AND LOCAL
17 CORRECTIONAL FACILITIES.

18 (B) APPROVED STANDARDS.

19 (1) WITH THE ADVICE OF THE COMMISSION, THE SECRETARY SHALL
20 ADOPT REGULATIONS THAT ESTABLISH APPROVED STANDARDS APPLICABLE TO
21 PERSONNEL, TRAINING, ADMINISTRATION, MANAGEMENT, PLANNING AND
22 COORDINATION, RESEARCH AND EVALUATION, PHYSICAL PLANT, SPECIAL
23 MANAGEMENT INMATES, RULES AND DISCIPLINE, MAIL AND VISITING, RECEPTION
24 AND ORIENTATION, PROPERTY CONTROL, WORK PROGRAMS, EDUCATIONAL AND
25 VOCATIONAL TRAINING, LIBRARY SERVICES, RELIGIOUS SERVICES, RECREATIONAL
26 ACTIVITIES, COUNSELING, RELEASE PREPARATION, AND VOLUNTEERS.

27 (2) THE APPROVED STANDARDS ADOPTED UNDER PARAGRAPH (1) OF
28 THIS SUBSECTION:

29 (I) SHALL APPLY TO ALL STATE CORRECTIONAL FACILITIES; AND

30 (II) MAY BE ADOPTED, AS A WHOLE OR IN PART, BY A LOCAL
31 CORRECTIONAL FACILITY.

32 (C) FEDERAL AND STATE LAW.

33 THE STANDARDS ADOPTED UNDER THIS SECTION SHALL BE CONSISTENT WITH
34 FEDERAL AND STATE LAW.

35 REVISOR'S NOTE: This section is new language derived without substantive
36 change from former Art. 41, § 4-401(b)(7) and (8) and former Art. 27, §

1 704(b) and the first sentence and, as it related to the meaning of
2 "standards", the third sentence of (a).

3 In subsections (a)(1) and (b)(1) of this section, the former requirement that
4 the Secretary "develop and" adopt standards is deleted as surplusage.

5 Also in subsections (a)(1) and (b)(1) of this section, the former reference to
6 a "rule" is deleted in light of the reference to a "regulation". See General
7 Revisor's Note to this article.

8 Also in subsections (a)(1) and (b)(1) of this section, the former requirement
9 that standards be adopted for "jails and other places used for confinement
10 or detention of adult offenders against the laws of this State" is deleted in
11 light of subsections (a)(2) and (b)(2) of this section, which provide for the
12 applicability of the standards.

13 In subsection (b)(1) of this section, the former reference to "inmate"
14 property control is deleted as implicit in the structure of the revised text.
15 Similarly, the former reference to "inmate" work programs is deleted.

16 The Correctional Services Article Review Committee notes, for
17 consideration by the General Assembly, that former Art. 27, § 704(a) and
18 former Art. 41, § 4-401(b)(8) were inconsistent regarding the issue of
19 whether the Secretary is required to adopt approved standards. The
20 language of former Art. 27, § 704(a), which provided that the Secretary
21 "shall" adopt approved standards and that such standards "shall include
22 the items enumerated in" former Art. 41, § 4-401(b)(8), suggested that the
23 Secretary is required to adopt approved standards. In contrast, the
24 language of former Art. 41, § 4-401(b)(8) suggested that the Secretary has
25 discretionary authority to adopt approved standards. Former Art. 41, §
26 4-401(b)(8) defined "approved standards" to mean policies and procedures
27 "in areas such as personnel, training, administration, management,
28 planning and coordination, research and evaluation, physical plant, special
29 management inmates, rules and discipline, mail and visiting, reception
30 and orientation, inmate property control, inmate work programs,
31 education and vocational training, library services, religious services,
32 recreational activities, counseling, release preparation and volunteers".
33 The reference in former Art. 41, § 4-401(b)(8) to policies and procedures in
34 "areas such as" the specifically enumerated areas implied that the
35 Secretary has discretionary authority to adopt approved standards.
36 Subsection (b) of this section has been drafted to reflect the mandatory
37 nature of former Art. 27, § 704(a) rather than the discretionary nature of
38 former Art. 41, § 4-401(b)(8). The General Assembly may wish to make it
39 discretionary for the Secretary to adopt approved standards. The
40 Committee also notes that the Secretary has never adopted approved
41 standards.

42 Former Art. 27, § 704(b), which defined "[s]tandards", is deleted as
43 surplusage.

1 Defined terms: "Approved standards" § 8-101

2 "Commission" § 8-101

3 "Inmate" § 1-101

4 "Local correctional facility" § 1-101

5 "Minimum mandatory standards" § 8-101

6 "Secretary" § 1-101

7 "State correctional facility" § 1-101

8 8-104. STATE FUNDS.

9 EXCEPT AS PROVIDED IN THE STATE BUDGET, STATE FUNDS MAY NOT BE USED
10 TO IMPLEMENT STANDARDS FOR STATE CORRECTIONAL FACILITIES THAT ARE
11 ADOPTED OR PROPOSED BY THE AMERICAN CORRECTIONAL ASSOCIATION.

12 REVISOR'S NOTE: This section is new language derived without substantive
13 change from the second sentence of former Art. 27, § 704(a).

14 The former reference to standards that are adopted, "promulgated and/or"
15 proposed is deleted as surplusage.

16 The prohibition against State money being "used" is substituted for the
17 former prohibition against money being "expended" for consistency with
18 terminology used throughout the revised articles of the Code. See, e.g., CL
19 § 9-401.2(3)(c), CJ §§ 3-2A-03A(d) and (e), 7-204(b), and 13-603(c), ED §§
20 5-201(b) and 11-203(d), FI § 9-220(b), FL § 2-404, HG § 7-206(c), and IN
21 §§ 20-301(c) and 20-410(c)(1).

22 The former reference to the "Commission on Accreditation for Corrections",
23 which merged with the American Correctional Association in 1986, is
24 deleted as obsolete.

25 The reference to the "State" budget is added to state expressly that which
26 was only implied by the former reference to the "budget".

27 Defined term: "State correctional facility" § 1-101

28 8-105. ENFORCEMENT.

29 THE STANDARDS ADOPTED UNDER § 8-103 OF THIS SUBTITLE SHALL BE
30 ENFORCED AS PROVIDED UNDER §§ 8-112 THROUGH 8-114 OF THIS SUBTITLE.

31 REVISOR'S NOTE: This section is new language derived without substantive
32 change from the third sentence of former Art. 27, § 704(a) as it related to
33 enforcement.

34 8-106. COMMISSION ON CORRECTIONAL STANDARDS -- ESTABLISHED.

35 THERE IS A MARYLAND COMMISSION ON CORRECTIONAL STANDARDS IN THE
36 DEPARTMENT.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 41, § 4-401(c)(1).

3 The reference to the "Maryland" Commission on Correctional Standards is
4 added for consistency with § 8-101 of this title.

5 Defined term: "Department" § 1-101

6 8-107. SAME -- MEMBERSHIP; TERMS.

7 (A) MEMBERSHIP.

8 THE COMMISSION CONSISTS OF THE FOLLOWING 11 MEMBERS:

9 (1) THE ATTORNEY GENERAL;

10 (2) THE SECRETARY OF GENERAL SERVICES;

11 (3) THE SECRETARY OF BUDGET AND MANAGEMENT; AND

12 (4) THE FOLLOWING EIGHT MEMBERS APPOINTED BY THE GOVERNOR
13 WITH THE ADVICE AND CONSENT OF THE SENATE:

14 (I) TWO MEMBERS OF THE PUBLIC WHO ARE NOT DIRECTLY
15 EMPLOYED IN THE FIELD OF CORRECTIONS;

16 (II) TWO CORRECTIONAL PERSONNEL FROM STATE GOVERNMENT;

17 (III) TWO CORRECTIONAL PERSONNEL FROM LOCAL GOVERNMENT;

18 (IV) ONE OFFICIAL OR EMPLOYEE OF A NATIONAL CORRECTIONAL
19 ACCREDITATION ORGANIZATION; AND

20 (V) ONE ELECTED OFFICIAL FROM A LOCAL GOVERNING BODY.

21 (B) TERMS.

22 (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION:

23 (I) THE TERM OF A MEMBER OF THE COMMISSION IS 3 YEARS; AND

24 (II) THE TERMS OF THE MEMBERS OF THE COMMISSION ARE
25 STAGGERED AS REQUIRED BY THE TERMS PROVIDED FOR MEMBERS OF THE
26 COMMISSION ON OCTOBER 1, 1999.

27 (2) (I) THE ATTORNEY GENERAL, SECRETARY OF GENERAL SERVICES,
28 AND SECRETARY OF BUDGET AND MANAGEMENT SHALL SERVE AS EX OFFICIO
29 MEMBERS OF THE COMMISSION.

30 (II) AN EX OFFICIO MEMBER OF THE COMMISSION MAY SERVE
31 PERSONALLY AT ANY COMMISSION MEETING OR DESIGNATE A REPRESENTATIVE

1 FROM THE EX OFFICIO MEMBER'S UNIT WHO MAY ACT AT ANY COMMISSION
 2 MEETING TO THE SAME EFFECT AS IF THE EX OFFICIO MEMBER WERE PERSONALLY
 3 PRESENT.

4 (C) APPOINTMENT OF SUCCESSOR.

5 (1) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL A
 6 SUCCESSOR IS APPOINTED AND QUALIFIES.

7 (2) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES
 8 ONLY FOR THE REMAINDER OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED
 9 AND QUALIFIES.

10 REVISOR'S NOTE: Subsections (a), (b), and, as it describes a member's term,
 11 (c)(2) of this section are new language derived without substantive change
 12 from former Art. 41, § 4-401(c)(2) and (3).

13 Subsection (b)(1)(ii) of this section is standard language substituted for the
 14 former obsolete reference in Art. 41, § 4-401(c)(3)(i) to the initial terms of
 15 the eight members of the Commission not serving in an ex officio capacity.
 16 This substitution is not intended to alter the term of any member of the
 17 Commission. The terms of the members serving on October 1, 1999, end as
 18 follows: (1) three on July 1, 2000; (2) two on July 1, 2001; and (3) three on
 19 July 1, 2002.

20 Subsection (c)(1) of this section and the clause "until a successor is
 21 appointed and qualifies" in subsection (c)(2) of this section are standard
 22 language added to avoid gaps in membership by indicating that a member
 23 serves until a successor takes office. These additions are supported by the
 24 holdings in Benson v. Mellor, 152 Md. 481 (1927) and Grooms v. LaVale
 25 Zoning Board, 27 Md. App. 266 (1975).

26 In subsection (a) of this section, the former reference to members "who
 27 collectively possess the following qualifications" is deleted as implicit in
 28 the enumeration of the individual members.

29 In subsection (a)(4)(i) of this section, the phrase "members of the public" is
 30 substituted for the former phrase "Maryland citizens" for clarity and for
 31 consistency throughout this article. See General Revisor's Note to this
 32 article.

33 In subsection (b)(2)(ii) of this section, the reference to an ex officio
 34 member's "unit" is substituted for the former reference to "department" for
 35 consistency throughout this article. See General Revisor's Note to this
 36 article.

37 In subsection (c)(2) of this section, the clause "[a] member who is appointed
 38 after a term has begun serves only for the remainder of the term" is added
 39 as standard language. It follows logically from the requirement that there
 40 be staggered terms. An inherent aspect of staggered terms is that they

1 must begin and end at set intervals.

2 Defined term: "Commission" § 8-101

3 8-108. SAME -- OFFICERS.

4 THE COMMISSION SHALL ELECT ANNUALLY A CHAIRPERSON AND VICE
5 CHAIRPERSON FROM AMONG ITS MEMBERS.

6 REVISOR'S NOTE: This section is new language derived without substantive
7 change from former Art. 41, § 4-401(c)(4).

8 The former reference to the "initial organizational meeting and thereafter"
9 is deleted as obsolete.

10 The references to "chairperson" and "vice chairperson" are substituted for
11 the former references to "chairman" and "vice-chairman", respectively,
12 because SG § 2-1238 requires the use of words that are neutral as to
13 gender to the extent practicable.

14 Defined term: "Commission" § 8-101

15 8-109. SAME -- QUORUM; MEETINGS; COMPENSATION.

16 (A) QUORUM.

17 A MAJORITY OF THE MEMBERS OF THE COMMISSION IS A QUORUM.

18 (B) MEETINGS.

19 THE COMMISSION SHALL MEET AT THE TIMES DETERMINED BY THE
20 COMMISSION OR ITS CHAIRPERSON.

21 (C) COMPENSATION AND REIMBURSEMENT FOR EXPENSES.

22 A MEMBER OF THE COMMISSION:

23 (1) MAY NOT RECEIVE COMPENSATION FOR SERVICE ON THE
24 COMMISSION; BUT

25 (2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE
26 STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

27 REVISOR'S NOTE: This section is new language derived without substantive
28 change from former Art. 41, § 4-401(c)(5), (6), and (7).

29 In subsection (a) of this section, the word "majority" is substituted for the
30 former reference to a "simple majority" because the plain meaning of the
31 word "majority" is a simple majority.

32 Also in subsection (a) of this section, the former requirement that a

1 majority of the members of the Commission constitutes a quorum for "the
2 transaction of any business, the performance of any duty, or the exercise of
3 any of its authority" is deleted as implicit in the term "quorum".

4 The Correctional Services Article Review Committee notes, for
5 consideration by the General Assembly, that the meaning of subsection (a)
6 of this section, which establishes that a majority "of the members of the
7 Commission" is a quorum, is unclear. The Committee is uncertain as to
8 whether this means a majority of the authorized membership of the
9 Commission or a majority of the members then serving on the Commission.
10 The General Assembly may wish to clarify the meaning of this provision.

11 In subsection (b) of this section, the former reference to times that are
12 determined by "a majority of [the Commission's] ... members" is deleted as
13 unnecessary in light of the establishment of a quorum in subsection (a) of
14 this section.

15 In subsection (c)(1) of this section, the word "compensation" is substituted
16 for the former reference to a "salary" for consistency throughout this
17 article. See General Revisor's Note to this article.

18 In subsection (c)(2) of this section, the former reference to "reasonable
19 expenses lawfully incurred in the performance of their official function" is
20 deleted in light of the reference to "Standard State Travel Regulations",
21 which specify the expenses that may be reimbursed.

22 Also in subsection (c)(2) of this section, the reference to the "State" budget
23 is added to state expressly that which was only implied by the former
24 reference to the "budget".

25 Defined term: "Commission" § 8-101

26 8-110. SAME -- ANNUAL REPORT.

27 (A) GOVERNOR AND GENERAL ASSEMBLY.

28 THE COMMISSION SHALL REPORT ANNUALLY TO THE GOVERNOR AND,
29 SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE GENERAL
30 ASSEMBLY ON THE ACTIVITIES OF THE COMMISSION.

31 (B) SECRETARY AND LOCAL GOVERNMENTS.

32 THE COMMISSION SHALL PROVIDE THE SECRETARY AND THE GOVERNING
33 BODY OF EACH COUNTY AND MUNICIPAL CORPORATION THAT HAS A CORRECTIONAL
34 FACILITY WITH A COPY OF ITS ANNUAL REPORT.

35 REVISOR'S NOTE: This section is new language derived without substantive
36 change from former Art. 41, § 4-401(c)(8).

37 The Correctional Services Article Review Committee notes, for

1 consideration by the General Assembly, that the last clause of former Art.
2 41, § 4-401(c)(8), which is revised in subsection (b) of this section, is
3 ambiguous as to whether it applies to any county or municipal corporation
4 that operates a correctional facility or, alternatively, to any county or
5 municipal corporation that has a State or local correctional facility located
6 within its territorial boundaries. This issue is relevant because no
7 municipality currently operates a correctional facility but some
8 municipalities do have State or local correctional facilities (or both) located
9 within their territorial boundaries. The General Assembly may wish to
10 resolve this ambiguity.

11 Defined terms: "Commission" § 8-101

12 "Correctional facility" § 1-101

13 "County" § 1-101

14 "Secretary" § 1-101

15 8-111. SAME -- EXECUTIVE DIRECTOR.

16 (A) APPOINTMENT.

17 (1) WITH THE APPROVAL OF THE SECRETARY, THE COMMISSION SHALL
18 APPOINT AN EXECUTIVE DIRECTOR.

19 (2) THE EXECUTIVE DIRECTOR IS A SPECIAL APPOINTMENT IN THE
20 STATE PERSONNEL MANAGEMENT SYSTEM.

21 (B) TERM.

22 THE EXECUTIVE DIRECTOR SERVES AT THE PLEASURE OF THE COMMISSION.

23 (C) DUTIES.

24 THE EXECUTIVE DIRECTOR SHALL PERFORM ADMINISTRATIVE FUNCTIONS AS
25 THE COMMISSION DIRECTS.

26 (D) SALARY.

27 THE EXECUTIVE DIRECTOR IS ENTITLED TO COMPENSATION AS PROVIDED IN
28 THE STATE BUDGET.

29 REVISOR'S NOTE: This section is new language derived without substantive
30 change from former Art. 41, § 4-401(d)(9).

31 In subsection (d) of this section, the reference to the "State" budget is
32 added to state expressly that which was only implied by the former
33 reference to "budget".

34 Defined terms: "Commission" § 8-101

35 "Secretary" § 1-101

1 8-112. SAME -- STANDARDS; REGULATIONS; STAFF.

2 (A) STANDARDS.

3 (1) THE COMMISSION SHALL:

4 (I) ADVISE THE SECRETARY REGARDING ALL MINIMUM
5 MANDATORY STANDARDS AND APPROVED STANDARDS FOR STATE AND LOCAL
6 CORRECTIONAL FACILITIES;

7 (II) CONSULT AND COORDINATE WITH NATIONAL BODIES
8 PROMULGATING CORRECTIONAL STANDARDS TO PROVIDE REASONABLE
9 COMPATIBILITY BETWEEN THE STATE STANDARDS AND NATIONALLY ESTABLISHED
10 STANDARDS; AND

11 (III) CONSULT AND COOPERATE WITH OTHER UNITS OF THE STATE
12 AND LOCAL JURISDICTIONS CONCERNING CORRECTIONAL STANDARDS.

13 (2) THE COMMISSION MAY PROVIDE TECHNICAL ASSISTANCE TO THE
14 EXTENT AUTHORIZED IN THE STATE BUDGET TO AID THE STATE AND LOCAL
15 JURISDICTIONS IN THEIR EFFORTS TO COMPLY WITH MINIMUM MANDATORY
16 STANDARDS AND APPROVED STANDARDS.

17 (B) REGULATIONS.

18 THE COMMISSION SHALL ADOPT REGULATIONS TO CARRY OUT THIS SUBTITLE.

19 (C) STAFF.

20 THE COMMISSION SHALL EMPLOY A STAFF NECESSARY TO CARRY OUT THIS
21 SUBTITLE AS PROVIDED IN THE STATE BUDGET.

22 REVISOR'S NOTE: This section is new language derived without substantive
23 change from former Art. 41, § 4-401(d)(1), (2), (8), (10), (11), and (12).

24 In subsection (a)(1) and (2) of this section, the reference to the defined term
25 "minimum mandatory standards" is substituted for the former references
26 to "mandatory ... standards" for consistency throughout this subtitle. See §
27 8-101 of this subtitle for the definition of "minimum mandatory
28 standards".

29 In subsection (a)(1)(i) of this section, the former reference to standards
30 "which ... [the Secretary] is authorized to adopt" is deleted as implicit in
31 the references to the defined terms "minimum mandatory standards" and
32 "approved standards".

33 In subsection (a)(1)(iii) of this section, the reference to "units" of the State
34 and local jurisdictions is substituted for the former list of specific unit
35 types, i.e., departments and agencies, for brevity. See General Revisor's
36 Note to this article.

1 In subsection (a)(2) of this section, the reference to "State and local
2 jurisdictions" is substituted for the former reference to "various
3 jurisdictions" to clarify that the Commission is authorized to assist the
4 State, as well as local jurisdictions, in efforts to comply with applicable
5 standards.

6 Also in subsection (a)(2) of this section, the reference to the "State" budget
7 is added to state expressly that which was only implied in the former
8 reference to the "budget".

9 In subsection (b) of this section, the requirement that the Secretary adopt
10 regulations "to carry out this subtitle" is substituted for the former
11 requirement that the Secretary adopt regulations "to accomplish the
12 purpose of this section" for consistency with subsection (c) of this section
13 and throughout this article. See General Revisor's Note to this article.

14 Also in subsection (b) of this section, the former reference to
15 "administrative rules" is deleted in light of the reference to "regulations".
16 See General Revisor's Note to this article.

17 In subsection (c) of this section, the requirement that the Commission
18 employ a "staff" is substituted for the former requirement that the
19 Commission employ "such other persons" for consistency with similar
20 provisions in other revised articles of the Code. See, e.g., BR § 2-103(b)(1),
21 BOP §§ 5-204(e) and 14-204(d), EN § 1-403(b)(1), SF §§ 3-203(c)(1),
22 4-203(b)(1), and 5-203(a), SG §§ 2-1606(b), 5-105(a), 6-105(a)(1), and
23 9-108(e)(1), HG § 2-103(b)(1), HO § 17-204(d), and FI § 2-104.

24 Defined terms: "Approved standards" § 8-101

25 "Commission" § 8-101

26 "Local correctional facility" § 1-101

27 "Minimum mandatory standards" § 8-101

28 "Secretary" § 1-101

29 "State correctional facility" § 1-101

30 8-113. SAME -- INSPECTIONS.

31 (A) COMPLIANCE.

32 THE COMMISSION SHALL:

33 (1) ESTABLISH AND IMPLEMENT A PROCESS TO INSPECT STATE AND
34 LOCAL CORRECTIONAL FACILITIES TO DETERMINE AND CERTIFY COMPLIANCE WITH
35 APPLICABLE STANDARDS; AND

36 (2) DETERMINE DEADLINES FOR REMEDIAL ACTION AND
37 REINSPECTION WHENEVER INSPECTION REPORTS INDICATE NONCOMPLIANCE WITH
38 APPLICABLE STANDARDS.

39 (B) APPEALS.

1 THE COMMISSION MAY REVIEW AND ACT ON APPEALS FROM STAFF
2 INSPECTION REPORTS.

3 REVISOR'S NOTE: This section is new language derived without substantive
4 change from former Art. 41, § 4-401(d)(3), (4), and (7).

5 The Correctional Services Article Review Committee notes, for
6 consideration by the General Assembly, that subsection (a)(1) of this
7 section requires the Commission to establish and implement a process to
8 inspect State and local correctional facilities to determine and "certify"
9 compliance with applicable standards. Currently, the Commission does not
10 interpret this provision to require the issuance of a "certificate" of
11 compliance. In practice, the Commission has implemented this provision
12 by issuing a letter that simply acknowledges compliance or noncompliance
13 with applicable standards.

14 Defined terms: "Commission" § 8-101

15 "Local correctional facility" § 1-101

16 "State correctional facility" § 1-101

17 8-114. SAME -- ORDERS TO CLOSE A FACILITY OR CEASE OPERATION.

18 (A) VIOLATION OF MANDATORY STANDARDS.

19 IF, AFTER HOLDING A HEARING ON THE ISSUE, THE COMMISSION DETERMINES
20 THAT A CORRECTIONAL FACILITY IS IN VIOLATION OF THE MINIMUM MANDATORY
21 STANDARDS, THE COMMISSION MAY ISSUE AN ORDER TO CEASE OPERATION OF THE
22 CORRECTIONAL FACILITY OR ANY OF ITS CORRECTIONAL ELEMENTS, PROCEDURES,
23 OR FUNCTIONS.

24 (B) NOTICE OF HEARING.

25 THE COMMISSION SHALL PROVIDE TO A CORRECTIONAL FACILITY
26 REASONABLE NOTICE OF A HEARING UNDER SUBSECTION (A) OF THIS SECTION.

27 (C) HEARING PROCEDURES.

28 THE COMMISSION MAY SUBPOENA WITNESSES AND HOLD PUBLIC HEARINGS IN
29 ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE
30 BEFORE MAKING A FINAL DECISION ON THE CLOSURE OF A CORRECTIONAL
31 FACILITY OR ANY OF ITS CORRECTIONAL ELEMENTS, PROCEDURES, OR FUNCTIONS.

32 REVISOR'S NOTE: This section is new language derived without substantive
33 change from former Art. 41, § 4-401(d)(5) and (6).

34 In subsection (a) of this section, the reference to the defined term
35 "minimum mandatory standards" is substituted for the former reference to
36 "mandatory standards" for consistency throughout this subtitle. See §
37 8-101 of this subtitle for the definition of "minimum mandatory
38 standards".

1 Also in subsection (a) of this section, the reference to the Commission's
2 authority to issue an order to cease operation of "the correctional facility"
3 or any of its correctional "elements", procedures, or functions is added for
4 consistency with subsection (c) of this section.

5 In subsection (c) of this section, the reference to the Commission's final
6 decision on the closure of a correctional facility, or any of its "correctional"
7 elements, "procedures, or functions" is added for consistency with
8 subsection (a) of this section.

9 Defined terms: "Commission" § 8-101

10 "Correctional facility" § 1-101

11 "Minimum mandatory standards" § 8-101

12 8-115. SAME -- LIFE-THREATENING OR HEALTH-ENDANGERING CONDITIONS.

13 (A) ORDER TO CEASE OPERATION.

14 IF THE COMMISSION OR AN AUTHORIZED INSPECTOR FINDS A CONDITION IN A
15 CORRECTIONAL FACILITY THAT IS LIFE THREATENING OR HEALTH ENDANGERING,
16 THE COMMISSION OR INSPECTOR MAY ORDER THE IMMEDIATE CESSATION OF
17 OPERATION.

18 (B) HEARING.

19 WITHIN 96 HOURS AFTER AN ORDER IS ISSUED UNDER SUBSECTION (A) OF THIS
20 SECTION, THE COMMISSION SHALL HOLD A REVIEW HEARING TO CONFIRM OR
21 COUNTERMAND THE ORDER.

22 (C) TRANSFER OF INMATES.

23 (1) IF A CORRECTIONAL FACILITY IS ORDERED CLOSED UNDER THIS
24 SECTION, ALL INMATES IN THE FACILITY SHALL BE TRANSFERRED TO AND
25 ACCEPTED IN A SUITABLE PLACE OF DETENTION, AS THE SECRETARY DETERMINES.

26 (2) THE GOVERNING BODY RESPONSIBLE FOR THE COST OF THE
27 CLOSED FACILITY SHALL PAY THE EXPENSES INCURRED IN TRANSFERRING AND
28 MAINTAINING INMATES UNDER PARAGRAPH (1) OF THIS SUBSECTION.

29 REVISOR'S NOTE: This section is new language derived without substantive
30 change from former Art. 41, § 4-401(e).

31 In subsection (a) of this section, the former reference to a "duly" authorized
32 inspector is deleted as implicit in the term "authorized".

33 In subsection (b) of this section, the former reference to a "full" hearing is
34 deleted because the word "full" provides no meaningful modification to the
35 word "hearing".

1 Defined terms: "Commission" § 8-101

2 "Correctional facility" § 1-101

3 "Inmate" § 1-101

4 "Secretary" § 1-101

5 8-116. SAME -- ADVISORY BOARDS.

6 (A) POWER TO ESTABLISH.

7 (1) THE COMMISSION SHALL ESTABLISH ADVISORY BOARDS TO ASSIST
8 THE COMMISSION IN CARRYING OUT ITS POWERS AND DUTIES UNDER THIS
9 SUBTITLE.

10 (2) THE COMMISSION MAY ESTABLISH ADVISORY BOARDS ON ADULT:

11 (I) DETENTION CENTERS AND LOCKUPS;

12 (II) COMMUNITY CORRECTIONAL FACILITIES; AND

13 (III) CORRECTIONAL FACILITIES OTHER THAN THOSE LISTED IN
14 ITEMS (I) AND (II) OF THIS PARAGRAPH.

15 (B) MEMBERS.

16 THE CHAIRPERSON OF THE COMMISSION SHALL APPOINT THE MEMBERS OF AN
17 ADVISORY BOARD WITH THE APPROVAL OF THE COMMISSION.

18 (C) CHAIRPERSON.

19 THE CHAIRPERSON OF AN ADVISORY BOARD SHALL BE A COMMISSION
20 MEMBER.

21 REVISOR'S NOTE: This section is new language derived without substantive
22 change from former Art. 41, § 4-401(f).

23 In subsection (a)(1) of this section, the reference to assisting the
24 Commission "in carrying out its powers and duties under this subtitle" is
25 added to state expressly that which was only implied in the former law.

26 Defined terms: "Commission" § 8-101

27 "Correctional facility" § 1-101

28 8-117. GENERAL POWERS AND DUTIES.

29 THE COMMISSION MAY PERFORM ANY ACTS NECESSARY AND APPROPRIATE TO
30 CARRY OUT THE POWERS AND DUTIES SET FORTH IN THIS SUBTITLE.

31 REVISOR'S NOTE: This section formerly was Art. 41, § 4-401(d)(13).

32 The only changes are in style.

1 Defined term: "Commission" § 8-101

2 SUBTITLE 2. CORRECTIONAL TRAINING COMMISSION.

3 8-201. DEFINITIONS.

4 (A) IN GENERAL.

5 IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

6 REVISOR'S NOTE: This subsection is new language derived without
7 substantive change from the introductory language of former Art. 41, §
8 4-301(b).

9 (B) APPROVED CORRECTIONAL TRAINING SCHOOL.

10 "APPROVED CORRECTIONAL TRAINING SCHOOL" MEANS A SCHOOL
11 AUTHORIZED BY THE COMMISSION TO OFFER TRAINING PROGRAMS AS PROVIDED
12 UNDER THIS SUBTITLE.

13 REVISOR'S NOTE: This subsection is new language derived without
14 substantive change from former Art. 41, § 4-301(b)(1).

15 The former reference to a school that is "approved" by the Commission is
16 deleted as implicit in the reference to a school that is "authorized" by the
17 Commission.

18 Defined term: "Commission" § 8-201

19 (C) COMMISSION.

20 "COMMISSION" MEANS THE CORRECTIONAL TRAINING COMMISSION.

21 REVISOR'S NOTE: This subsection is new language derived without
22 substantive change from former Art. 41, § 4-301(b)(2).

23 The former reference to "officers or employees ... acting on ... behalf" of the
24 Commission is deleted for consistency with similar provisions in other
25 revised articles of the Code. See, e.g., BOP §§ 16-101(g) and 17-101(d), ED
26 §§ 10-101(b) and 16-502(d), EN §§ 5-1201(b) and 6-801(e), HG §§
27 5-301(b) and 13-101(b), LE § 9-101(d), and SG §§ 9-101(c) and 9-201(b).

28 (D) CORRECTIONAL ADMINISTRATOR.

29 "CORRECTIONAL ADMINISTRATOR" MEANS A CORRECTIONAL OFFICER WHO
30 HAS BEEN PROMOTED FROM A SUPERVISORY RANK TO FIRST-LINE ADMINISTRATIVE
31 DUTIES.

32 REVISOR'S NOTE: This subsection is new language derived without
33 substantive change from former Art. 41, § 4-301(b)(9).

1 Defined term: "Correctional officer" § 8-201

2 (E) CORRECTIONAL OFFICER.

3 (1) "CORRECTIONAL OFFICER" MEANS A MEMBER OF A CORRECTIONAL
4 UNIT WHOSE DUTIES RELATE TO THE INVESTIGATION, CARE, CUSTODY, CONTROL,
5 OR SUPERVISION OF INMATES AND INDIVIDUALS WHO:

6 (I) HAVE BEEN PLACED ON PAROLE OR MANDATORY
7 SUPERVISION;

8 (II) HAVE BEEN PLACED ON PROBATION; OR

9 (III) HAVE RECEIVED A SUSPENDED SENTENCE.

10 (2) "CORRECTIONAL OFFICER" DOES NOT INCLUDE:

11 (I) THE HEAD OR DEPUTY HEAD OF A CORRECTIONAL UNIT; OR

12 (II) A SHERIFF, WARDEN, OR SUPERINTENDENT OR AN INDIVIDUAL
13 WITH AN EQUIVALENT TITLE WHO IS APPOINTED OR EMPLOYED BY A UNIT OF
14 GOVERNMENT TO EXERCISE EQUIVALENT SUPERVISORY AUTHORITY.

15 REVISOR'S NOTE: This subsection is new language derived without
16 substantive change from former Art. 41, § 4-301(b)(7).

17 In the introductory language of paragraph (1) of this subsection, the former
18 reference to an individual who is "charged with and actually performs"
19 certain duties is deleted as implicit in the reference to an individual who
20 has those duties.

21 Also in the introductory language of paragraph (1) of this subsection, the
22 former phrase "as defined in this section" is deleted as surplusage because
23 such references are not necessary for defined terms.

24 In items (1)(i) through (iii) of this subsection, the references to individuals
25 who have been placed on "parole", "mandatory supervision", or "probation"
26 or who have "received a suspended sentence" are added for consistency
27 with subsection (g) of this section and §§ 8-202 and 8-208(1) of this
28 subtitle. All of these provisions reflect the General Assembly's intent to
29 make the provisions of this subtitle applicable to members of a correctional
30 unit that have responsibility for individuals who are placed on parole,
31 mandatory supervision, or probation or who receive a suspended sentence
32 in addition to members of a correctional unit who have responsibility for
33 inmates of a correctional facility.

34 In paragraph (2) of this subsection, the former reference to an individual
35 "serving as ... [a correctional officer] solely by virtue of his occupying any
36 other office or position" is deleted. The Correctional Services Article
37 Review Committee notes, for consideration by the General Assembly, that

1 the meaning of this phrase is unclear, but that it appears to be
 2 unnecessary in light of the specific listing of particular offices and
 3 positions in paragraph (2) of this subsection. The General Assembly may
 4 wish to retain this language or clarify its meaning.

5 In paragraph (2)(ii) of this subsection, the word "individual" is substituted
 6 for the former reference to "person" because only a human being, and not
 7 the other entities included in the defined term "person", can be appointed
 8 or employed by a unit of government to exercise equivalent supervisory
 9 authority. See § 1-101 of this article for the definition of "person".

10 Defined terms: "Correctional unit" § 8-201

11 "Inmate" § 1-101

12 (F) CORRECTIONAL SUPERVISOR.

13 "CORRECTIONAL SUPERVISOR" MEANS A CORRECTIONAL OFFICER WHO HAS
 14 BEEN PROMOTED TO FIRST-LINE SUPERVISORY DUTIES.

15 REVISOR'S NOTE: This subsection is new language derived without
 16 substantive change from former Art. 41, § 4-301(b)(8).

17 Defined term: "Correctional officer" § 8-201

18 (G) CORRECTIONAL UNIT.

19 (1) "CORRECTIONAL UNIT" MEANS A UNIT OF STATE, COUNTY, OR
 20 MUNICIPAL GOVERNMENT THAT IS RESPONSIBLE UNDER A STATUTE, ORDINANCE,
 21 OR COURT ORDER FOR THE INVESTIGATION, CARE, CUSTODY, CONTROL, AND
 22 SUPERVISION OF INMATES AND INDIVIDUALS WHO:

23 (I) HAVE BEEN PLACED ON PAROLE OR MANDATORY
 24 SUPERVISION;

25 (II) HAVE BEEN PLACED ON PROBATION; OR

26 (III) HAVE RECEIVED A SUSPENDED SENTENCE.

27 (2) "CORRECTIONAL UNIT" DOES NOT INCLUDE THE DEPARTMENT OF
 28 JUVENILE JUSTICE.

29 REVISOR'S NOTE: This subsection is new language derived without
 30 substantive change from former Art. 41, § 4-301(b)(4).

31 In the introductory language of paragraph (1) of this subsection, the word
 32 "individuals" is substituted for the former references to "persons" because
 33 only individuals can be placed on parole, probation, or mandatory
 34 supervision or receive a suspended sentence. See § 1-101 of this article for
 35 the definition of "person".

36 Also in the introductory language of paragraph (1) of this subsection, the

1 word "unit" is substituted for the former reference to "any governmental
2 organization or activity" for consistency throughout this article. See
3 General Revisor's Note to this article.

4 Also in the introductory language of paragraph (1) of this subsection, the
5 references to "investigation" and "custody" are added for consistency with
6 subsection (e)(1) of this section.

7 In item (1)(i) of this subsection, the reference to "mandatory supervision" is
8 added for consistency with § 7-502(b) of this article, which provides that
9 "[a]n individual on mandatory supervision is subject to all laws, rules,
10 regulations, and conditions that apply to parolees".

11 Also in item (1)(i) of this subsection, the reference to individuals "who have
12 been placed on parole" is substituted for the former reference to
13 individuals "declared to be parolees" for grammatical consistency with
14 item (1)(ii) of this subsection.

15 In item (1)(iii) of this subsection, the reference to individuals "who have
16 received a suspended sentence" is substituted for the former reference to
17 individuals who have been "placed on ... suspension of sentence" for clarity.
18 An individual is not "placed" on a suspended sentence. An individual
19 "receives" a suspended sentence.

20 Defined terms: "County" § 1-101

21 "Inmate" § 1-101

22 (H) PERMANENT APPOINTMENT.

23 "PERMANENT APPOINTMENT" MEANS AN APPOINTMENT THAT HAS
24 PERMANENT STATUS.

25 REVISOR'S NOTE: This subsection is new language derived without
26 substantive change from former Art. 41, § 4-301(b)(6).

27 The former reference to an appointment having permanent status "as a
28 correctional, parole, or probation officer as ... defined in this section" is
29 deleted as inconsistent with § 8-209(a) of this subtitle, which is the only
30 section of this subtitle that uses the term "permanent appointment" and
31 which applies to the permanent appointment of a "correctional officer,
32 correctional supervisor, or correctional administrator".

33 REVISOR'S NOTE TO SECTION:

34 Former Art. 41, § 4-301(b)(3), which defined the term "county", is deleted
35 as duplicative of the definition of "county" in § 1-101 of this article.

36 Former Art. 41, § 4-301(b)(5), which defined the term "municipality", is
37 deleted and the term "municipal corporation" is substituted throughout
38 this subtitle to conform to Md. Constitution, Art. XI-E.

1 8-202. LEGISLATIVE FINDINGS.

2 THE GENERAL ASSEMBLY FINDS THAT:

3 (1) THERE IS A NEED TO IMPROVE THE ADMINISTRATION OF THE
4 CORRECTIONAL SYSTEM TO BETTER PROTECT THE HEALTH, SAFETY, AND WELFARE
5 OF THE PUBLIC;

6 (2) THE ULTIMATE GOAL OF THE CORRECTIONAL SYSTEM IS TO MAKE
7 THE COMMUNITY SAFER BY REDUCING THE INCIDENCE OF CRIME;

8 (3) ESTABLISHING A CORRECTIONAL SYSTEM WITH SIGNIFICANTLY
9 INCREASED POWER TO REDUCE RECIDIVISM AND PREVENT RECRUITMENT INTO
10 CRIMINAL CAREERS WILL REQUIRE A SUFFICIENT NUMBER OF QUALIFIED STAFF TO
11 PERFORM THE MANY TASKS TO BE DONE;

12 (4) RECENT STUDIES HAVE REVEALED THAT GREATER TRAINING FOR
13 CORRECTIONAL WORK IS HIGHLY DESIRABLE;

14 (5) THE NEED FOR TRAINING CAN BE SUBSTANTIALLY MET BY
15 CREATING EDUCATIONAL AND TRAINING PROGRAMS FOR INDIVIDUALS SEEKING
16 CAREERS AS CORRECTIONAL OFFICERS;

17 (6) WHILE SERVING IN A PROBATIONARY CAPACITY, A CORRECTIONAL
18 OFFICER SHOULD BE REQUIRED TO RECEIVE EFFICIENT TRAINING PROVIDED AT
19 FACILITIES THAT ARE APPROVED BY A COMMISSION THAT IS AUTHORIZED TO
20 APPROVE TRAINING FACILITIES; AND

21 (7) BY QUALIFYING AND BECOMING PROFICIENT IN THE FIELD OF
22 CORRECTIONS, CORRECTIONAL OFFICERS SHALL INDIVIDUALLY AND
23 COLLECTIVELY BETTER INSURE THE HEALTH, SAFETY, AND WELFARE OF THE
24 PUBLIC.

25 REVISOR'S NOTE: This section is new language derived without substantive
26 change from former Art. 41, § 4-301(a).

27 In paragraph (1) of this section, the term "the public" is substituted for the
28 former reference to "Maryland citizens" because the meaning of the word
29 "citizen" is unclear and for consistency with similar provisions in other
30 revised articles of the Code. See General Revisor's Note to this article.
31 Similarly, in paragraph (7) of this section, the term "the public" is
32 substituted for the former reference to "the citizens of this State".

33 In paragraph (4) of this section, the former reference to "preparation" is
34 deleted as redundant in light of the term "training".

35 In paragraph (6) of this section, the former phrase "prior to permanent
36 appointment" is deleted as implicit in the phrase "while serving in a
37 probationary capacity".

1 Also in paragraph (6) of this section, the reference to a "commission that is
2 authorized to approve training facilities" is substituted for the former
3 reference to a "commission created for such purpose" for clarity and to
4 state expressly that which was only implied in the former law.

5 Defined term: "Correctional officer" § 8-201

6 8-203. ESTABLISHED.

7 THERE IS A CORRECTIONAL TRAINING COMMISSION IN THE DEPARTMENT.

8 REVISOR'S NOTE: This section is new language derived without substantive
9 change from former Art. 41, § 4-301(c) as it established the Commission.

10 The former reference to "the State of Maryland" is deleted as implicit in
11 the defined term "Department".

12 Defined term: "Department" § 1-101

13 8-204. MEMBERSHIP.

14 (A) COMPOSITION; APPOINTMENT OF MEMBERS.

15 THE COMMISSION CONSISTS OF THE FOLLOWING 12 MEMBERS:

16 (1) THE DEPUTY SECRETARY OF PUBLIC SAFETY AND CORRECTIONAL
17 SERVICES;

18 (2) THE DIRECTOR OF THE DIVISION OF PAROLE AND PROBATION;

19 (3) THE COMMISSIONER OF CORRECTION;

20 (4) THE PRESIDENT OF THE MARYLAND CORRECTIONAL
21 ADMINISTRATORS ASSOCIATION;

22 (5) THE PRESIDENT OF THE MARYLAND SHERIFFS ASSOCIATION;

23 (6) THE PRESIDENT OF THE MARYLAND CRIMINAL JUSTICE
24 ASSOCIATION;

25 (7) A REPRESENTATIVE OF THE FEDERAL BUREAU OF PRISONS,
26 DESIGNATED BY ITS DIRECTOR;

27 (8) THE ATTORNEY GENERAL OF THE STATE;

28 (9) THE PRESIDENT OF A UNIVERSITY OR COLLEGE IN THE STATE WITH
29 A CORRECTIONAL EDUCATION CURRICULUM, APPOINTED BY THE MARYLAND
30 HIGHER EDUCATION COMMISSION; AND

31 (10) THREE CORRECTIONAL OFFICERS OR OFFICIALS OF THE STATE
32 APPOINTED UNDER SUBSECTION (B) OF THIS SECTION.

1 (B) CORRECTIONAL OFFICERS; TERMS; APPOINTMENT OF SUCCESSORS.

2 (1) WITH THE APPROVAL OF THE GOVERNOR, THE SECRETARY SHALL
3 APPOINT THREE CORRECTIONAL OFFICERS OR OFFICIALS TO BE MEMBERS OF THE
4 COMMISSION.

5 (2) THE THREE MEMBERS APPOINTED UNDER PARAGRAPH (1) OF THIS
6 SUBSECTION SHALL REPRESENT DIFFERENT GEOGRAPHIC AREAS OF THE STATE.

7 (3) THE TERM OF A MEMBER WHO IS APPOINTED UNDER PARAGRAPH (1)
8 OF THIS SUBSECTION IS 3 YEARS.

9 (4) THE TERMS OF THE MEMBERS WHO ARE APPOINTED UNDER
10 PARAGRAPH (1) OF THIS SUBSECTION ARE STAGGERED AS REQUIRED BY THE TERMS
11 PROVIDED FOR MEMBERS OF THE COMMISSION ON OCTOBER 1, 1999.

12 (5) (I) AT THE END OF A TERM, A MEMBER WHO WAS APPOINTED
13 UNDER PARAGRAPH (1) OF THIS SUBSECTION CONTINUES TO SERVE UNTIL A
14 SUCCESSOR IS APPOINTED AND QUALIFIES.

15 (II) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN
16 SERVES ONLY FOR THE REMAINDER OF THE TERM AND UNTIL A SUCCESSOR IS
17 APPOINTED AND QUALIFIES.

18 (C) DESIGNATION OF REPRESENTATIVES.

19 EXCEPT FOR THE THREE MEMBERS APPOINTED BY THE SECRETARY UNDER
20 SUBSECTION (B) OF THIS SECTION, A MEMBER OF THE COMMISSION MAY SERVE
21 PERSONALLY AT A COMMISSION MEETING OR DESIGNATE A REPRESENTATIVE FROM
22 THE MEMBER'S UNIT OR ASSOCIATION WHO MAY ACT AT ANY MEETING TO THE SAME
23 EFFECT AS IF THE MEMBER WERE PERSONALLY PRESENT.

24 REVISOR'S NOTE: This section is new language derived without substantive
25 change from the introductory language of former Art. 41, § 4-301(c), as it
26 relates to the membership of the Commission, and (c)(1) and (3).

27 Subsection (b)(4) of this section is standard language substituted for the
28 former obsolete reference in Art. 41, § 4-301(c)(1) to the initial terms of the
29 three correctional officers appointed to the Commission. This substitution
30 is not intended to alter the term of any member of the Commission. The
31 terms of the members serving on October 1, 1999, end as follows: (1) one on
32 June 30, 2000; (2) one on June 30, 2001; and (3) one on June 30, 2002.

33 Subsection (b)(5)(i) of this section and the clause "and until a successor is
34 appointed and qualifies" in subsection (b)(5)(ii) of this section are standard
35 language added to avoid gaps in membership by indicating that a member
36 serves until a successor takes office. These additions are supported by the
37 holdings in Benson v. Mellor, 152 Md. 481 (1927) and Grooms v. LaVale
38 Zoning Board, 27 Md. App. 266 (1975).

1 In subsection (b)(5)(ii) of this section, the clause "[a] member who is
2 appointed after a term has begun serves only for the remainder of the
3 term" is added as standard language. It follows logically from the
4 requirement that there be staggered terms. An inherent aspect of
5 staggered terms is that they must begin and end at set intervals.

6 In subsection (c) of this section, the word "unit" is substituted for the
7 former reference to "office, department, university or college, bureau or
8 agency" for brevity. See General Revisor's Note to this article.

9 Defined terms: "Commission" § 8-201

10 "Commissioner of Correction" § 1-101

11 "Correctional officer" § 8-201

12 "Division of Parole and Probation" § 1-101

13 "Secretary" § 1-101

14 8-205. OFFICERS.

15 (A) CHAIRPERSON.

16 THE DEPUTY SECRETARY OF PUBLIC SAFETY AND CORRECTIONAL SERVICES OR
17 THE DEPUTY SECRETARY'S REPRESENTATIVE IS THE CHAIRPERSON OF THE
18 COMMISSION.

19 (B) VICE CHAIRPERSON.

20 THE COMMISSION SHALL ELECT ANNUALLY A VICE CHAIRPERSON FROM
21 AMONG ITS MEMBERS.

22 REVISOR'S NOTE: This section is new language derived without substantive
23 change from former Art. 41, § 4-301(c)(2) and the first sentence of (d)(1).

24 In subsection (b) of this section, the former reference to the "initial
25 organization meeting to be held promptly after the appointment and
26 qualifications of its members" is deleted as obsolete because the
27 Commission has already had its initial organizational meeting.

28 Defined term: "Commission" § 8-201

29 8-206. STAFF.

30 (A) EXECUTIVE DIRECTOR.

31 (1) WITH THE APPROVAL OF THE SECRETARY, THE COMMISSION SHALL
32 APPOINT AN EXECUTIVE DIRECTOR.

33 (2) THE EXECUTIVE DIRECTOR SHALL PERFORM GENERAL
34 ADMINISTRATIVE FUNCTIONS.

35 (3) THE EXECUTIVE DIRECTOR SERVES AT THE PLEASURE OF THE
36 COMMISSION.

1 (B) DEPUTY DIRECTOR; ADMINISTRATIVE EMPLOYEES.

2 (1) WITH THE APPROVAL OF THE SECRETARY, THE COMMISSION SHALL
3 APPOINT A DEPUTY DIRECTOR AND ANY OTHER EMPLOYEES THAT THE COMMISSION
4 CONSIDERS NECESSARY TO PERFORM GENERAL ADMINISTRATIVE AND TRAINING
5 MANAGEMENT FUNCTIONS.

6 (2) THE DEPUTY DIRECTOR AND OTHER EMPLOYEES APPOINTED UNDER
7 PARAGRAPH (1) OF THIS SUBSECTION SHALL SERVE AT THE PLEASURE OF THE
8 COMMISSION.

9 (C) OTHER EMPLOYEES.

10 WITH THE APPROVAL OF THE SECRETARY, THE COMMISSION SHALL EMPLOY
11 OTHER INDIVIDUALS AS NECESSARY TO CARRY OUT THIS SUBTITLE.

12 (D) COMPENSATION.

13 THE EXECUTIVE DIRECTOR, THE DEPUTY DIRECTOR, AND OTHER EMPLOYEES
14 OF THE COMMISSION ARE ENTITLED TO RECEIVE COMPENSATION AS ESTABLISHED
15 BY THE COMMISSION IN ACCORDANCE WITH THE STATE BUDGET.

16 REVISOR'S NOTE: This section is new language derived without substantive
17 change from former Art. 41, § 4-301(e)(7) and (8).

18 In subsections (a), (b), and (c) of this section, the mandatory language,
19 which provides that the Commission "shall" appoint an Executive Director,
20 a Deputy Director, and other employees as necessary to perform general
21 administrative and training management functions and that the
22 Commission "shall" employ other individuals as necessary to carry out this
23 subtitle, is substituted for the former references to "responsibilities" and
24 "duties" for consistency with similar provisions in other revised articles of
25 the Code. The word "shall" is used in revised articles to indicate a duty or
26 responsibility.

27 The Correctional Services Article Review Committee notes, for
28 consideration by the General Assembly, that the introductory language in
29 former Art. 41, § 4-301(e) refers to "powers, authority, responsibilities, and
30 duties" of the Commission. This language gives rise to the issue of whether
31 former Art. 41, § 4-301(e)(7) and (8) establish powers (i.e., authority) or
32 duties (i.e., responsibilities). This section has been drafted to create
33 mandatory duties because the word "shall" (which indicates a duty) was
34 used several times in former Art. 41, § 4-301(e)(7) and (8). If the General
35 Assembly wishes to make these powers discretionary, the word "may"
36 should be substituted for the word "shall".

37 In subsection (c) of this section, the word "individuals" is substituted for
38 the former reference to "persons" because only individuals can be employed
39 by the Commission. See § 1-101 of this article for the definition of
40 "person".

1 In subsection (d) of this section, the reference to receiving compensation "in
2 accordance with the State budget", in connection with the Executive
3 Director, the Deputy Director, and other employees who perform
4 administrative and training management functions, is added to state
5 expressly that which was only implied in the former law.

6 Defined terms: "Commission" § 8-201

7 "Secretary" § 1-101

8 8-207. MEETINGS; QUORUM; COMPENSATION; RECORDS.

9 (A) MEETINGS.

10 THE COMMISSION SHALL MEET IN THE STATE AT THE TIMES DETERMINED BY:

11 (1) A MAJORITY OF ITS MEMBERS;

12 (2) THE CHAIRPERSON OF THE COMMISSION; OR

13 (3) THE SECRETARY.

14 (B) QUORUM.

15 A MAJORITY OF THE COMMISSION IS A QUORUM.

16 (C) COMPENSATION.

17 A MEMBER OF THE COMMISSION:

18 (1) MAY NOT RECEIVE COMPENSATION FOR SERVICE ON THE
19 COMMISSION; BUT

20 (2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE
21 STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

22 (D) RECORDS.

23 THE COMMISSION SHALL:

24 (1) MAINTAIN MINUTES OF ITS MEETINGS AND ANY OTHER RECORDS
25 THAT IT CONSIDERS NECESSARY; AND

26 (2) PROVIDE INFORMATION, ON REQUEST, REGARDING THE BUDGET,
27 ACTIVITIES, AND PROGRAMS OF THE COMMISSION.

28 REVISOR'S NOTE: This section is new language derived without substantive
29 change from former Art. 41, § 4-301(d)(2), (3), and the second and third
30 sentences of (1).

31 In subsection (b) of this section, the former requirement that a majority of
32 the Commission constitutes a quorum "for the transaction of any business,

1 the performance of any duty, or for the exercise of any of its authority" is
2 deleted as implicit in the term "quorum".

3 The Correctional Services Article Review Committee notes, for
4 consideration by the General Assembly, that the meaning of the references
5 to "a majority" of the Commission in subsections (a)(1) and (b) of this
6 section is unclear. The Committee is uncertain as to whether this means a
7 majority of the authorized membership of the Commission (i.e., seven
8 members) or a majority of the members of the Commission that are then
9 serving. The General Assembly may wish to clarify the meaning of this
10 provision.

11 In subsection (c)(1) of this section, the word "compensation" is substituted
12 for the former reference to "salary" for consistency throughout this article.
13 See General Revisor's Note to this article.

14 In subsection (c)(2) of this section, the former reference to "reasonable
15 expenses lawfully incurred" is deleted because the Standard State Travel
16 Regulations provide guidelines for the types of expenses that may be
17 reimbursed.

18 Defined terms: "Commission" § 8-201

19 "Secretary" § 1-101

20 8-208. POWERS AND DUTIES.

21 SUBJECT TO THE AUTHORITY OF THE SECRETARY, THE COMMISSION HAS THE
22 FOLLOWING POWERS AND DUTIES:

23 (1) TO PRESCRIBE STANDARDS FOR THE APPROVAL AND CONTINUATION
24 OF APPROVAL OF SCHOOLS THAT CONDUCT CORRECTIONAL, PAROLE, OR PROBATION
25 ENTRANCE LEVEL AND IN-SERVICE TRAINING COURSES REQUIRED BY THE
26 COMMISSION, INCLUDING STATE, REGIONAL, COUNTY, AND MUNICIPAL TRAINING
27 SCHOOLS;

28 (2) TO APPROVE AND ISSUE CERTIFICATES OF APPROVAL TO
29 CORRECTIONAL TRAINING SCHOOLS;

30 (3) TO INSPECT CORRECTIONAL TRAINING SCHOOLS;

31 (4) TO REVOKE, FOR CAUSE, ANY APPROVAL OR CERTIFICATE OF
32 APPROVAL ISSUED TO A CORRECTIONAL TRAINING SCHOOL;

33 (5) TO PRESCRIBE THE FOLLOWING FOR CORRECTIONAL TRAINING
34 SCHOOLS:

35 (I) CURRICULUM;

36 (II) COURSES OF STUDY;

- 1 (III) ATTENDANCE REQUIREMENTS;
- 2 (IV) ELIGIBILITY REQUIREMENTS;
- 3 (V) EQUIPMENT AND FACILITIES;
- 4 (VI) STANDARDS OF OPERATION; AND
- 5 (VII) MINIMUM QUALIFICATIONS FOR INSTRUCTORS;
- 6 (6) TO CERTIFY AND ISSUE APPROPRIATE CERTIFICATES TO QUALIFIED
7 INSTRUCTORS FOR APPROVED CORRECTIONAL TRAINING SCHOOLS;
- 8 (7) TO CERTIFY AND ISSUE APPROPRIATE CERTIFICATES TO
9 CORRECTIONAL OFFICERS WHO HAVE SATISFACTORILY COMPLETED TRAINING
10 PROGRAMS;
- 11 (8) TO CONDUCT AND OPERATE APPROVED CORRECTIONAL TRAINING
12 SCHOOLS;
- 13 (9) TO ADOPT REGULATIONS NECESSARY TO CARRY OUT THIS SUBTITLE,
14 INCLUDING REGULATIONS THAT ESTABLISH AND ENFORCE STANDARDS FOR PRIOR
15 SUBSTANCE ABUSE BY INDIVIDUALS APPLYING FOR CERTIFICATION AS A
16 CORRECTIONAL OFFICER;
- 17 (10) TO MAKE A CONTINUOUS STUDY OF CORRECTIONAL TRAINING
18 METHODS AND PROCEDURES FOR ALL CORRECTIONAL TRAINING SCHOOLS;
- 19 (11) TO CONSULT WITH AND ACCEPT THE COOPERATION OF ANY
20 RECOGNIZED FEDERAL, STATE, OR MUNICIPAL CORRECTIONAL AGENCY OR
21 EDUCATIONAL INSTITUTION;
- 22 (12) TO CONSULT AND COOPERATE WITH UNIVERSITIES, COLLEGES, AND
23 INSTITUTIONS TO DEVELOP ALL GENERAL AND SPECIALIZED COURSES OF STUDY
24 FOR CORRECTIONAL OFFICERS;
- 25 (13) TO CONSULT AND COOPERATE WITH OTHER UNITS OF THE STATE
26 CONCERNED WITH CORRECTIONAL TRAINING; AND
- 27 (14) TO PERFORM ANY OTHER ACT THAT IS NECESSARY OR APPROPRIATE
28 TO CARRY OUT THIS SUBTITLE.

29 REVISOR'S NOTE: This section is new language derived without substantive
30 change from former Art. 41, § 4-301(e)(1) through (6) and (9) through (14).

31 In the introductory language of this section, the former references to the
32 Commission's "authority" and "responsibilities" are deleted as surplusage
33 in light of the synonymous reference to the "powers" and "duties" of the
34 Commission.

35 In item (1) of this section, the former reference to "existing" training

1 schools is deleted as implicit in the reference to "training schools".

2 In item (5)(iv) of this section, the phrase "eligibility requirements" is
3 substituted for the former reference to "eligibility to attend" for
4 grammatical consistency within this item.

5 In item (8) of this section, the former reference to correctional training
6 schools "as defined in this subtitle" is deleted as surplusage because such
7 references are not needed for defined terms.

8 In item (9) of this section, the former provision that makes the
9 Commission's authority to adopt regulations subject to the Secretary's
10 approval is deleted as unnecessary in light of the introductory language of
11 this section, which states that all of the Commission's powers and duties
12 are subject to the Secretary's approval.

13 Also in item (9) of this section, the requirement that the Commission
14 "adopt" regulations is substituted for the former requirement that the
15 Commission "promulgate" regulations for consistency with similar
16 provisions in other revised articles of the Code. See General Revisor's Note
17 to this article.

18 Also in item (9) of this section, the former reference to "rules" is deleted in
19 light of the reference to "regulations". See General Revisor's Note to this
20 article.

21 Also in item (9) of this section, the former requirement that the
22 Commission adopt regulations that are "reasonably necessary or
23 appropriate" is deleted in light of Title 10, Subtitle 1 of the State
24 Government Article, which requires that regulations be adopted according
25 to a procedure designed to ensure reasonableness. See, e.g., SG §
26 10-111.1(b).

27 Also in item (9) of this section, the requirement that the Commission adopt
28 regulations to "carry out this subtitle" is substituted for the former
29 requirement that the Commission adopt regulations to "accomplish the
30 purposes and objectives of this section" for consistency throughout this
31 article. See General Revisor's Note to this article.

32 Also in item (9) of this section, the word "individuals" is substituted for the
33 former reference to "persons" because only individuals apply for
34 certification as correctional officers. See § 1-101 of this article for the
35 definition of "person".

36 In item (14) of this section, the phrase "carry out this subtitle" is
37 substituted for the former reference to "carry out its functions and duties
38 as set forth in this section" for consistency throughout this article.

39 Defined terms: "Approved correctional training school" § 8-201

40 "Commission" § 8-201

1 "Correctional officer" § 8-201

2 "County" § 1-101

3 "Secretary" § 1-101

4 8-209. PROBATIONARY APPOINTMENT OF CORRECTIONAL OFFICERS.

5 (A) QUALIFICATIONS.

6 AN INDIVIDUAL MAY NOT BE GIVEN OR ACCEPT A PROBATIONARY OR
7 PERMANENT APPOINTMENT AS CORRECTIONAL OFFICER, CORRECTIONAL
8 SUPERVISOR, OR CORRECTIONAL ADMINISTRATOR UNLESS THE INDIVIDUAL
9 SATISFACTORILY MEETS MINIMUM QUALIFICATIONS ESTABLISHED BY THE
10 COMMISSION.

11 (B) PROBATIONARY APPOINTMENT; TRAINING.

12 A PROBATIONARY APPOINTMENT AS A CORRECTIONAL OFFICER,
13 CORRECTIONAL SUPERVISOR, OR CORRECTIONAL ADMINISTRATOR MAY BE MADE
14 FOR NO MORE THAN 1 YEAR FOR THE PURPOSE OF ENABLING THE INDIVIDUAL
15 SEEKING PERMANENT APPOINTMENT TO TAKE A TRAINING COURSE PRESCRIBED BY
16 THE COMMISSION.

17 (C) LEAVE OF ABSENCE.

18 A PROBATIONARY APPOINTEE IS ENTITLED TO A LEAVE OF ABSENCE WITH PAY
19 DURING THE PERIOD OF THE TRAINING PROGRAM.

20 REVISOR'S NOTE: This section is new language derived without substantive
21 change from former Art. 41, § 4-301(f) and (g).

22 In subsections (a) and (b) of this section, the word "individual" is
23 substituted for the former references to "person" because only individuals
24 can accept probationary or permanent appointment as a correctional
25 officer, correctional supervisor, or correctional administrator. See § 1-101
26 of this article for the definition of "person".

27 Also in subsection (a) of this section, the former phrase "as defined in this
28 section" is deleted as surplusage because such references are not needed
29 for defined terms.

30 Also in subsection (a) of this section, the former reference to July 1, 1976 is
31 deleted as obsolete.

32 Defined terms: "Commission" § 8-201

33 "Correctional administrator" § 8-201

34 "Correctional officer" § 8-201

35 "Correctional supervisor" § 8-201

36 "Permanent appointment" § 8-201

1 8-210. POWERS AND DUTIES OF LOCAL GOVERNMENT.

2 EXCEPT AS EXPRESSLY PROVIDED IN THIS SUBTITLE, THIS SUBTITLE DOES NOT
3 LIMIT THE POWERS, RIGHTS, DUTIES, OR RESPONSIBILITIES OF A MUNICIPAL OR
4 COUNTY GOVERNMENT.

5 REVISOR'S NOTE: This section is new language derived without substantive
6 change from former Art. 41, § 4-301(h).

7 Defined term: "County" § 1-101

8 SUBTITLE 3. LAW ENFORCEMENT AND CORRECTIONAL TRAINING FUND.

9 8-301. "FUND" DEFINED.

10 IN THIS SUBTITLE, "FUND" MEANS THE LAW ENFORCEMENT AND
11 CORRECTIONAL TRAINING FUND.

12 REVISOR'S NOTE: This section is new language derived without substantive
13 change from former Art. 41, § 4-1301(a)(1) and (2).

14 8-302. ESTABLISHED; PURPOSE.

15 (A) ESTABLISHED.

16 THERE IS A LAW ENFORCEMENT AND CORRECTIONAL TRAINING FUND.

17 (B) PURPOSE.

18 THE PURPOSE OF THE FUND IS TO PROVIDE AN ADDITIONAL SOURCE OF
19 FUNDING FOR THE TRAINING NEEDS OF LAW ENFORCEMENT AND CORRECTIONAL
20 OFFICERS OF THE STATE AND OF LOCAL JURISDICTIONS.

21 REVISOR'S NOTE: This section formerly was Art. 41, § 4-1301(b)(1) and (8).

22 No changes are made.

23 Defined term: "Fund" § 8-301

24 8-303. STATUS; INVESTMENTS.

25 (A) STATUS.

26 (1) THE FUND IS A SPECIAL CONTINUING, NONLAPSING FUND THAT IS
27 NOT SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

28 (2) THE TREASURER SHALL SEPARATELY HOLD AND THE COMPTROLLER
29 SHALL ACCOUNT FOR THE FUND.

30 (3) THE FUND IS SUBJECT TO AUDIT BY THE OFFICE OF LEGISLATIVE
31 AUDITS UNDER § 2-1220 OF THE STATE GOVERNMENT ARTICLE.

1 (B) INVESTMENTS.

2 (1) THE FUND SHALL BE INVESTED AND REINVESTED IN THE SAME
3 MANNER AS OTHER STATE FUNDS.

4 (2) ANY INVESTMENT EARNINGS SHALL BE CREDITED TO THE FUND.

5 REVISOR'S NOTE: This section is new language derived without substantive
6 change from former Art. 41, § 4-1301(b)(2) through (5) and (7).

7 In subsection (a)(3) of this section, the reference to the "Office of
8 Legislative Audits" is substituted for the former reference to the "Division
9 of Audits" to reflect the current organization of the Department of
10 Legislative Services. See Title 2, Subtitle 12, Part IV of the State
11 Government Article.

12 Defined terms: "Comptroller" § 1-101

13 "Fund" § 8-301

14 "Treasurer" § 1-101

15 8-304. EXPENDITURES.

16 (A) IN GENERAL.

17 EXPENDITURES UNDER THIS SECTION SHALL BE MADE IN ACCORDANCE WITH
18 AN APPROPRIATION APPROVED BY THE GENERAL ASSEMBLY IN THE STATE BUDGET.

19 (B) BUDGET REQUESTS.

20 (1) THE DEPARTMENT SHALL INCLUDE IN ITS ANNUAL OPERATING AND
21 CAPITAL BUDGET REQUESTS AN ITEMIZED LIST OF REQUESTS FOR THE USE OF
22 MONEY FROM THE FUND.

23 (2) THE LIST SHALL INCLUDE A BRIEF DESCRIPTION OF EACH PROJECT,
24 AN ESTIMATE OF ITS COST, AND THE BENEFITS TO BE DERIVED.

25 (C) RESTRICTIONS.

26 (1) DISBURSEMENTS FROM THE FUND SHALL SUPPLEMENT AND MAY
27 NOT SUBSTITUTE FOR ANY AMOUNTS DESIGNATED IN THE STATE BUDGET FOR
28 ASSISTANCE TO STATE AND LOCAL JURISDICTIONS FOR LAW ENFORCEMENT AND
29 CORRECTIONAL TRAINING PURPOSES.

30 (2) MONEY FROM THE FUND MAY NOT BE USED TO SUPPLANT THE
31 BUDGET OF THE POLICE TRAINING COMMISSION OR THE CORRECTIONAL TRAINING
32 COMMISSION.

33 REVISOR'S NOTE: This section is new language derived without substantive
34 change from former Art. 41, § 4-1301(b)(6), (c), and (d).

35 In subsection (a) of this section, the former requirement that an

1 appropriation be approved "prior to the expenditure or obligation" is
2 deleted as implicit in the requirement that expenditures be made "in
3 accordance with an appropriation approved by the General Assembly in
4 the State budget".

5 In subsection (b) of this section, the former reference to "available" money
6 from the Fund is deleted as implicit in the reference to "money from the
7 Fund".

8 Defined terms: "Department" § 1-101

9 "Fund" § 8-301

10 8-305. CONSTRUCTION.

11 THIS SUBTITLE DOES NOT PROHIBIT THE FUND FROM RECEIVING MONEY
12 FROM ANY SOURCE.

13 REVISOR'S NOTE: This section is new language derived without substantive
14 change from former Art. 41, § 4-1301(e).

15 The word "money" is substituted for the former reference to "funds" for
16 consistency with § 8-304(b) and (c) of this subtitle.

17 The former reference to money from any "other" source is deleted as
18 unnecessary because a source of money is not identified in this section.

19 As to the current source of money for the Fund, see CJ § 7-301.

20 Defined term: "Fund" § 8-301

21 SUBTITLE 4. INTERSTATE AGREEMENT ON DETAINERS AND RELATED MATTERS.

22 8-401. SUBTITLE DEFINITIONS.

23 (A) IN GENERAL.

24 IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

25 REVISOR'S NOTE: This subsection is new language added as the standard
26 introduction to a definition section.

27 (B) AGREEMENT.

28 "AGREEMENT" MEANS THE INTERSTATE AGREEMENT ON DETAINERS, WHICH IS
29 SET FORTH IN §§ 8-402 THROUGH 8-411 OF THIS SUBTITLE.

30 REVISOR'S NOTE: This subsection is new language added to avoid repetition
31 of the full title of the "Interstate Agreement on Detainers".

32 (C) APPROPRIATE COURT.

1 "APPROPRIATE COURT" MEANS, WITH REFERENCE TO THE COURTS OF THIS
2 STATE, A CIRCUIT COURT OF A COUNTY OR THE DISTRICT COURT.

3 REVISOR'S NOTE: This subsection is new language derived without
4 substantive change from former Art. 27, § 616K(a).

5 The former phrase "as used in the Interstate Agreement on Detainers" is
6 deleted for consistency with §§ 8-412 through 8-417 of this subtitle, which
7 are not a part of the Agreement itself but which are inextricably related to
8 the Agreement. See, e.g., § 8-416 of this subtitle (which uses the term
9 "appropriate court").

10 The reference to "a circuit court of a county or the District Court" is
11 substituted for the former reference to "any court in this State having
12 criminal jurisdiction which is part of the circuit court of a county, the
13 District Court or any other court than these specified courts" for clarity.
14 The circuit courts of the counties and the Maryland District Court are the
15 only "courts of this State" with criminal jurisdiction.

16 Defined term: "County" § 1-101

17 (D) CORRECTIONAL INSTITUTION.

18 "CORRECTIONAL INSTITUTION" MEANS, WITH REFERENCE TO THE
19 CORRECTIONAL INSTITUTIONS OF THIS STATE, ANY STATE OR LOCAL
20 CORRECTIONAL FACILITY.

21 REVISOR'S NOTE: This subsection is new language derived without
22 substantive change from former Art. 27, § 616K(b).

23 The former phrase "as used in the Interstate Agreement on Detainers" is
24 deleted for consistency with §§ 8-412 through 8-417 of this subtitle, which
25 are not a part of the Agreement itself but which are inextricably related to
26 the Agreement. See, e.g., §§ 8-413 and 8-414 of this subtitle (which use the
27 term "correctional institution").

28 The reference to any "State or local correctional facility" is substituted for
29 the former reference to any "correctional or reformatory institution under
30 the Division of Correction and the jail of any county or the Baltimore City
31 Detention Center" for consistency with terminology used throughout this
32 article. See General Revisor's Note to this article.

33 Defined terms: "Local correctional facility" § 1-101

34 "State correctional facility" § 1-101

35 8-402. AGREEMENT -- PREAMBLE.

36 THE CONTRACTING STATES SOLEMNLY AGREE THAT:

37 REVISOR'S NOTE: This section formerly was Art. 27, § 616A.

1 No changes are made.

2 As to the general policy of the Correctional Services Article Review
3 Committee concerning changes in interstate agreements, see General
4 Revisor's Note to this subtitle.

5 8-403. SAME -- FINDINGS OF PARTY STATES; PURPOSE OF AGREEMENT.

6 ARTICLE I

7 THE PARTY STATES FIND THAT CHARGES OUTSTANDING AGAINST A PRISONER,
8 DETAINERS BASED ON UNTRIED INDICTMENTS, INFORMATIONS, OR COMPLAINTS,
9 AND DIFFICULTIES IN SECURING SPEEDY TRIAL OF PERSONS ALREADY
10 INCARCERATED IN OTHER JURISDICTIONS, PRODUCE UNCERTAINTIES WHICH
11 OBSTRUCT PROGRAMS OF PRISONER TREATMENT AND REHABILITATION.
12 ACCORDINGLY, IT IS THE POLICY OF THE PARTY STATES AND THE PURPOSE OF THIS
13 AGREEMENT TO ENCOURAGE THE EXPEDITIOUS AND ORDERLY DISPOSITION OF
14 SUCH CHARGES AND DETERMINATION OF THE PROPER STATUS OF ANY AND ALL
15 DETAINERS BASED ON UNTRIED INDICTMENTS, INFORMATIONS, OR COMPLAINTS.
16 THE PARTY STATES ALSO FIND THAT PROCEEDINGS WITH REFERENCE TO SUCH
17 CHARGES AND DETAINERS, WHEN EMANATING FROM ANOTHER JURISDICTION,
18 CANNOT PROPERLY BE HAD IN THE ABSENCE OF COOPERATIVE PROCEDURES. IT IS
19 THE FURTHER PURPOSE OF THIS AGREEMENT TO PROVIDE SUCH COOPERATIVE
20 PROCEDURES.

21 REVISOR'S NOTE: This section formerly was Art. 27, § 616B.

22 A comma is added after the first reference to "informations".

23 No other changes are made.

24 Defined terms: "Agreement" § 8-401

25 "Person" § 1-101

26 8-404. SAME -- DEFINITIONS.

27 ARTICLE II

28 (A) IN GENERAL.

29 AS USED IN THIS AGREEMENT THE FOLLOWING WORDS HAVE THE MEANINGS
30 INDICATED.

31 REVISOR'S NOTE: This subsection is new language substituted for the
32 introductory language of former Art. 27, § 616C.

33 (B) RECEIVING STATE.

1 "RECEIVING STATE" MEANS THE STATE IN WHICH TRIAL IS TO BE HAD ON AN
2 INDICTMENT, INFORMATION, OR COMPLAINT PURSUANT TO § 8-405 OR § 8-406 OF
3 THIS SUBTITLE (ARTICLE III OR IV OF THE AGREEMENT).

4 REVISOR'S NOTE: This subsection formerly was Art. 27, § 616C(c).

5 The only changes are in style.

6 (C) SENDING STATE.

7 "SENDING STATE" MEANS A STATE IN WHICH A PRISONER IS INCARCERATED AT
8 THE TIME THAT THE PRISONER INITIATES A REQUEST FOR FINAL DISPOSITION
9 PURSUANT TO § 8-405 OF THIS SUBTITLE (ARTICLE III OF THE AGREEMENT) OR AT
10 THE TIME THAT A REQUEST FOR CUSTODY OR AVAILABILITY IS INITIATED
11 PURSUANT TO § 8-406 OF THIS SUBTITLE (ARTICLE IV OF THE AGREEMENT).

12 REVISOR'S NOTE: This subsection formerly was Art. 27, § 616C(b).

13 The words "the prisoner" are substituted for the former pronoun "he"
14 because SG § 2-1238 requires the use of words that are "neutral as to
15 gender".

16 The only other changes are in style.

17 (D) STATE.

18 "STATE" MEANS A STATE OF THE UNITED STATES, THE UNITED STATES OF
19 AMERICA, A TERRITORY OR POSSESSION OF THE UNITED STATES, THE DISTRICT OF
20 COLUMBIA, AND THE COMMONWEALTH OF PUERTO RICO.

21 REVISOR'S NOTE: This subsection formerly was Art. 27, § 616C(a).

22 The only changes are in style.

23 REVISOR'S NOTE TO SECTION: In this revision, the defined terms are placed
24 in alphabetical order.

25 8-405. SAME -- REQUEST FOR FINAL DISPOSITION OF UNTRIED INDICTMENT,
26 INFORMATION, OR COMPLAINT.

27 ARTICLE III

28 (A) NOTICE OF PRISONER'S PLACE OF IMPRISONMENT AND REQUEST FOR
29 FINAL DISPOSITION.

30 WHENEVER A PERSON HAS ENTERED UPON A TERM OF IMPRISONMENT IN A
31 PENAL OR CORRECTIONAL INSTITUTION OF A PARTY STATE, AND WHENEVER
32 DURING THE CONTINUANCE OF THE TERM OF IMPRISONMENT THERE IS PENDING IN
33 ANY OTHER PARTY STATE ANY UNTRIED INDICTMENT, INFORMATION, OR
34 COMPLAINT ON THE BASIS OF WHICH A DETAINER HAS BEEN LODGED AGAINST THE

1 PRISONER, THE PRISONER SHALL BE BROUGHT TO TRIAL WITHIN 180 DAYS AFTER
2 THE PRISONER SHALL HAVE CAUSED TO BE DELIVERED TO THE PROSECUTING
3 OFFICER AND THE APPROPRIATE COURT OF THE PROSECUTING OFFICER'S
4 JURISDICTION WRITTEN NOTICE OF THE PLACE OF THE PRISONER'S IMPRISONMENT
5 AND THE PRISONER'S REQUEST FOR A FINAL DISPOSITION TO BE MADE OF THE
6 INDICTMENT, INFORMATION, OR COMPLAINT; PROVIDED THAT FOR GOOD CAUSE
7 SHOWN IN OPEN COURT, THE PRISONER OR THE PRISONER'S COUNSEL BEING
8 PRESENT, THE COURT HAVING JURISDICTION OF THE MATTER MAY GRANT ANY
9 NECESSARY OR REASONABLE CONTINUANCE. THE REQUEST OF THE PRISONER
10 SHALL BE ACCOMPANIED BY A CERTIFICATE OF THE APPROPRIATE OFFICIAL
11 HAVING CUSTODY OF THE PRISONER, STATING THE TERM OF COMMITMENT UNDER
12 WHICH THE PRISONER IS BEING HELD, THE TIME ALREADY SERVED, THE TIME
13 REMAINING TO BE SERVED ON THE SENTENCE, THE AMOUNT OF GOOD TIME
14 EARNED, THE TIME OF PAROLE ELIGIBILITY OF THE PRISONER, AND ANY DECISIONS
15 OF THE STATE PAROLE AGENCY RELATING TO THE PRISONER.

16 (B) TO WHOM NOTICE AND REQUEST SENT.

17 THE WRITTEN NOTICE AND REQUEST FOR FINAL DISPOSITION REQUIRED
18 UNDER SUBSECTION (A) OF THIS SECTION SHALL BE GIVEN OR SENT BY THE
19 PRISONER TO THE WARDEN, COMMISSIONER OF CORRECTIONS, OR OTHER OFFICIAL
20 HAVING CUSTODY OF THE PRISONER, WHO SHALL PROMPTLY FORWARD IT
21 TOGETHER WITH THE CERTIFICATE TO THE APPROPRIATE PROSECUTING OFFICIAL
22 AND COURT BY REGISTERED OR CERTIFIED MAIL, RETURN RECEIPT REQUESTED.

23 (C) DUTY OF PERSON HAVING CUSTODY OF PRISONER TO PROVIDE
24 INFORMATION.

25 THE WARDEN, COMMISSIONER OF CORRECTIONS, OR OTHER OFFICIAL HAVING
26 CUSTODY OF THE PRISONER SHALL PROMPTLY INFORM THE PRISONER OF THE
27 SOURCE AND CONTENTS OF ANY DETAINDER LODGED AGAINST THE PRISONER AND
28 SHALL ALSO INFORM THE PRISONER OF THE PRISONER'S RIGHT TO MAKE A REQUEST
29 FOR FINAL DISPOSITION OF THE INDICTMENT, INFORMATION, OR COMPLAINT ON
30 WHICH THE DETAINDER IS BASED.

31 (D) SCOPE OF REQUEST FOR FINAL DISPOSITION; DUTY OF PERSON HAVING
32 CUSTODY OF PRISONER TO PROVIDE NOTICE TO PROSECUTING OFFICERS.

33 ANY REQUEST FOR FINAL DISPOSITION MADE BY A PRISONER UNDER
34 SUBSECTION (A) OF THIS SECTION SHALL OPERATE AS A REQUEST FOR FINAL
35 DISPOSITION OF ALL UNTRIED INDICTMENTS, INFORMATIONS, OR COMPLAINTS ON
36 THE BASIS OF WHICH DETAINERS HAVE BEEN LODGED AGAINST THE PRISONER
37 FROM THE STATE TO WHOSE PROSECUTING OFFICIAL THE REQUEST FOR FINAL
38 DISPOSITION IS SPECIFICALLY DIRECTED. THE WARDEN, COMMISSIONER OF
39 CORRECTIONS, OR OTHER OFFICIAL HAVING CUSTODY OF THE PRISONER SHALL
40 FORTHWITH NOTIFY ALL APPROPRIATE PROSECUTING OFFICERS AND COURTS IN
41 THE SEVERAL JURISDICTIONS WITHIN THE STATE TO WHICH THE PRISONER'S
42 REQUEST FOR FINAL DISPOSITION IS BEING SENT OF THE PROCEEDING BEING
43 INITIATED BY THE PRISONER. ANY NOTIFICATION SENT UNDER THIS SUBSECTION

1 SHALL BE ACCOMPANIED BY COPIES OF THE PRISONER'S WRITTEN NOTICE,
 2 REQUEST, AND THE CERTIFICATE. IF TRIAL IS NOT HAD ON ANY INDICTMENT,
 3 INFORMATION, OR COMPLAINT CONTEMPLATED HEREBY PRIOR TO THE RETURN OF
 4 THE PRISONER TO THE ORIGINAL PLACE OF IMPRISONMENT, THE INDICTMENT,
 5 INFORMATION, OR COMPLAINT SHALL NOT BE OF ANY FURTHER FORCE OR EFFECT,
 6 AND THE COURT SHALL ENTER AN ORDER DISMISSING THE SAME WITH PREJUDICE.

7 (E) REQUEST CONSTITUTES WAIVER OF EXTRADITION AND CONSENT BY
 8 PRISONER TO PRODUCTION OF BODY.

9 ANY REQUEST FOR FINAL DISPOSITION MADE BY A PRISONER UNDER
 10 SUBSECTION (A) OF THIS SECTION SHALL ALSO BE DEEMED TO BE A WAIVER OF
 11 EXTRADITION WITH RESPECT TO ANY CHARGE OR PROCEEDING CONTEMPLATED
 12 THEREBY OR INCLUDED THEREIN BY REASON OF SUBSECTION (D) OF THIS SECTION,
 13 AND A WAIVER OF EXTRADITION TO THE RECEIVING STATE TO SERVE ANY
 14 SENTENCE THERE IMPOSED ON THE PRISONER, AFTER COMPLETION OF THE
 15 PRISONER'S TERM OF IMPRISONMENT IN THE SENDING STATE. THE REQUEST FOR
 16 FINAL DISPOSITION SHALL ALSO CONSTITUTE A CONSENT BY THE PRISONER TO THE
 17 PRODUCTION OF THE PRISONER'S BODY IN ANY COURT WHERE THE PRISONER'S
 18 PRESENCE MAY BE REQUIRED IN ORDER TO EFFECTUATE THE PURPOSES OF THIS
 19 AGREEMENT AND A FURTHER CONSENT VOLUNTARILY TO BE RETURNED TO THE
 20 ORIGINAL PLACE OF IMPRISONMENT IN ACCORDANCE WITH THE PROVISIONS OF
 21 THIS AGREEMENT. NOTHING IN THIS SUBSECTION SHALL PREVENT THE IMPOSITION
 22 OF A CONCURRENT SENTENCE IF OTHERWISE PERMITTED BY LAW.

23 (F) ESCAPE AFTER EXECUTION OF REQUEST FOR FINAL DISPOSITION.

24 ESCAPE FROM CUSTODY BY THE PRISONER SUBSEQUENT TO THE PRISONER'S
 25 EXECUTION OF THE REQUEST FOR FINAL DISPOSITION DESCRIBED IN SUBSECTION
 26 (A) OF THIS SECTION SHALL VOID THE REQUEST.

27 REVISOR'S NOTE: This section formerly was Art. 27, § 616D.

28 In subsections (a), (b), (c), (e), and (f) of this section, gender neutral terms
 29 are substituted for the former pronouns "he", "his", and "him", respectively,
 30 because SG § 2-1238 requires the use of words that are "neutral as to
 31 gender".

32 The only other changes are in style.

33 Defined terms: "Agreement" § 8-401

34 "Appropriate court" § 8-401

35 "Correctional institution" § 8-401

36 "Person" § 1-101

37 "Receiving state" § 8-404

38 "Sending state" § 8-404

39 "State" § 8-404

1 8-406. SAME -- REQUEST FOR TEMPORARY CUSTODY.

2 ARTICLE IV

3 (A) PRESENTATION OF WRITTEN REQUEST.

4 THE APPROPRIATE OFFICER OF THE JURISDICTION IN WHICH AN UNTRIED
5 INDICTMENT, INFORMATION, OR COMPLAINT IS PENDING SHALL BE ENTITLED TO
6 HAVE THE PRISONER AGAINST WHOM THE OFFICER HAS LODGED A DETAINER AND
7 WHO IS SERVING A TERM OF IMPRISONMENT IN ANY PARTY STATE MADE AVAILABLE
8 IN ACCORDANCE WITH § 8-407(A) OF THIS SUBTITLE (ARTICLE V (A) OF THE
9 AGREEMENT) UPON PRESENTATION OF A WRITTEN REQUEST FOR TEMPORARY
10 CUSTODY OR AVAILABILITY TO THE APPROPRIATE AUTHORITIES OF THE STATE IN
11 WHICH THE PRISONER IS INCARCERATED; PROVIDED THAT THE COURT HAVING
12 JURISDICTION OF THE INDICTMENT, INFORMATION, OR COMPLAINT SHALL HAVE
13 DULY APPROVED, RECORDED, AND TRANSMITTED THE REQUEST; AND PROVIDED
14 FURTHER THAT THERE SHALL BE A PERIOD OF 30 DAYS AFTER RECEIPT BY THE
15 APPROPRIATE AUTHORITIES BEFORE THE REQUEST BE HONORED, WITHIN WHICH
16 PERIOD THE GOVERNOR OF THE SENDING STATE MAY DISAPPROVE THE REQUEST
17 FOR TEMPORARY CUSTODY OR AVAILABILITY EITHER UPON THE GOVERNOR'S OWN
18 MOTION OR UPON MOTION OF THE PRISONER.

19 (B) CERTIFICATE ISSUED BY AUTHORITIES HAVING CUSTODY OF PRISONER;
20 NOTICE TO OTHERS WHO HAVE LODGED DETAINERS.

21 UPON RECEIPT OF THE OFFICER'S WRITTEN REQUEST AS PROVIDED UNDER
22 SUBSECTION (A) OF THIS SECTION, THE APPROPRIATE AUTHORITIES HAVING THE
23 PRISONER IN CUSTODY SHALL FURNISH THE OFFICER WITH A CERTIFICATE STATING
24 THE TERM OF COMMITMENT UNDER WHICH THE PRISONER IS BEING HELD, THE
25 TIME ALREADY SERVED, THE TIME REMAINING TO BE SERVED ON THE SENTENCE,
26 THE AMOUNT OF GOOD TIME EARNED, THE TIME OF PAROLE ELIGIBILITY OF THE
27 PRISONER, AND ANY DECISIONS OF THE STATE PAROLE AGENCY RELATING TO THE
28 PRISONER. THE AUTHORITIES SIMULTANEOUSLY SHALL FURNISH ALL OTHER
29 OFFICERS AND APPROPRIATE COURTS IN THE RECEIVING STATE WHO HAVE LODGED
30 DETAINERS AGAINST THE PRISONER WITH SIMILAR CERTIFICATES AND WITH
31 NOTICES INFORMING THEM OF THE REQUEST FOR CUSTODY OR AVAILABILITY AND
32 OF THE REASONS THEREFOR.

33 (C) TIME FOR TRIAL TO COMMENCE; AUTHORITY OF COURT TO GRANT
34 CONTINUANCE.

35 IN RESPECT OF ANY PROCEEDING MADE POSSIBLE BY THIS SECTION (ARTICLE
36 IV OF THE AGREEMENT), TRIAL SHALL BE COMMENCED WITHIN 120 DAYS OF THE
37 ARRIVAL OF THE PRISONER IN THE RECEIVING STATE, BUT FOR GOOD CAUSE SHOWN
38 IN OPEN COURT, THE PRISONER OR THE PRISONER'S COUNSEL BEING PRESENT, THE
39 COURT HAVING JURISDICTION OF THE MATTER MAY GRANT ANY NECESSARY OR
40 REASONABLE CONTINUANCE.

41 (D) CONTESTING LEGALITY OF DELIVERY OF PRISONER.

1 NOTHING CONTAINED IN THIS SECTION (ARTICLE IV OF THE AGREEMENT)
2 SHALL BE CONSTRUED TO DEPRIVE ANY PRISONER OF ANY RIGHT THAT THE
3 PRISONER MAY HAVE TO CONTEST THE LEGALITY OF THE PRISONER'S DELIVERY
4 UNDER SUBSECTION (A) OF THIS SECTION, BUT THE DELIVERY MAY NOT BE OPPOSED
5 OR DENIED ON THE GROUND THAT THE EXECUTIVE AUTHORITY OF THE SENDING
6 STATE HAS NOT AFFIRMATIVELY CONSENTED TO OR ORDERED THE DELIVERY.

7 (E) DISMISSAL OF INDICTMENT, INFORMATION, OR COMPLAINT.

8 IF TRIAL IS NOT HAD ON ANY INDICTMENT, INFORMATION, OR COMPLAINT
9 CONTEMPLATED HEREBY PRIOR TO THE PRISONER'S BEING RETURNED TO THE
10 ORIGINAL PLACE OF IMPRISONMENT UNDER § 8-407(E) OF THIS SUBTITLE (ARTICLE V
11 (E) OF THE AGREEMENT), THE INDICTMENT, INFORMATION, OR COMPLAINT SHALL
12 NOT BE OF ANY FURTHER FORCE OR EFFECT, AND THE COURT SHALL ENTER AN
13 ORDER DISMISSING THE INDICTMENT, INFORMATION, OR COMPLAINT WITH
14 PREJUDICE.

15 REVISOR'S NOTE: This section formerly was Art. 27, § 616E.

16 In subsections (a) and (c) of this section, gender neutral terms are
17 substituted for the former pronouns "he" and "his", respectively, because
18 SG § 2-1238 requires the use of words that are "neutral as to gender".

19 The only other changes are in style.

20 Defined terms: "Agreement" § 8-401

21 "Appropriate court" § 8-401

22 "Receiving state" § 8-404

23 "Sending state" § 8-404

24 "State" § 8-404

25 8-407. SAME -- TEMPORARY CUSTODY FOR PROSECUTION.

26 ARTICLE V

27 (A) DUTIES OF SENDING STATE.

28 IN RESPONSE TO A REQUEST MADE UNDER § 8-405 OR § 8-406 OF THIS SUBTITLE
29 (ARTICLE III OR IV OF THE AGREEMENT), THE APPROPRIATE AUTHORITY IN A
30 SENDING STATE SHALL OFFER TO DELIVER TEMPORARY CUSTODY OF THE PRISONER
31 TO THE APPROPRIATE AUTHORITY IN THE STATE WHERE THE INDICTMENT,
32 INFORMATION, OR COMPLAINT IS PENDING AGAINST THE PRISONER IN ORDER THAT
33 SPEEDY AND EFFICIENT PROSECUTION MAY BE HAD. IF THE REQUEST FOR FINAL
34 DISPOSITION IS MADE BY THE PRISONER, THE OFFER OF TEMPORARY CUSTODY
35 SHALL ACCOMPANY THE WRITTEN NOTICE REQUIRED UNDER § 8-405 OF THIS
36 SUBTITLE (ARTICLE III OF THE AGREEMENT). IN THE CASE OF A FEDERAL PRISONER,
37 THE APPROPRIATE AUTHORITY IN THE RECEIVING STATE SHALL BE ENTITLED TO
38 TEMPORARY CUSTODY AS PROVIDED BY THIS AGREEMENT OR TO THE PRISONER'S
39 PRESENCE IN FEDERAL CUSTODY AT THE PLACE FOR TRIAL, WHICHEVER CUSTODIAL
40 ARRANGEMENT MAY BE APPROVED BY THE CUSTODIAN.

1 (B) DUTIES OF RECEIVING STATE.

2 THE OFFICER OR OTHER REPRESENTATIVE OF A STATE ACCEPTING AN OFFER
3 OF TEMPORARY CUSTODY SHALL PRESENT THE FOLLOWING UPON DEMAND:

4 (1) PROPER IDENTIFICATION AND EVIDENCE OF THE OFFICER'S
5 AUTHORITY TO ACT FOR THE STATE INTO WHOSE TEMPORARY CUSTODY THE
6 PRISONER IS TO BE GIVEN; AND

7 (2) A DULY CERTIFIED COPY OF THE INDICTMENT, INFORMATION, OR
8 COMPLAINT ON THE BASIS OF WHICH THE DETAINEE HAS BEEN LODGED AND ON
9 THE BASIS OF WHICH THE REQUEST FOR TEMPORARY CUSTODY OF THE PRISONER
10 HAS BEEN MADE.

11 (C) DISMISSAL OF INDICTMENT.

12 IF THE APPROPRIATE AUTHORITY SHALL REFUSE OR FAIL TO ACCEPT
13 TEMPORARY CUSTODY OF THE PERSON, OR IN THE EVENT THAT AN ACTION ON THE
14 INDICTMENT, INFORMATION, OR COMPLAINT ON THE BASIS OF WHICH THE
15 DETAINEE HAS BEEN LODGED IS NOT BROUGHT TO TRIAL WITHIN THE PERIOD
16 PROVIDED IN § 8-405 OR § 8-406 OF THIS SUBTITLE (ARTICLE III OR IV OF THE
17 AGREEMENT), THE APPROPRIATE COURT OF THE JURISDICTION WHERE THE
18 INDICTMENT, INFORMATION, OR COMPLAINT HAS BEEN PENDING SHALL ENTER AN
19 ORDER DISMISSING THE SAME WITH PREJUDICE, AND ANY DETAINEE BASED ON THE
20 INDICTMENT, INFORMATION, OR COMPLAINT SHALL CEASE TO BE OF ANY FORCE OR
21 EFFECT.

22 (D) PURPOSE OF TEMPORARY CUSTODY; PLACE OF DETENTION.

23 THE TEMPORARY CUSTODY REFERRED TO IN THIS AGREEMENT SHALL BE ONLY
24 FOR THE PURPOSE OF PERMITTING PROSECUTION ON THE CHARGE OR CHARGES
25 CONTAINED IN ONE OR MORE UNTRIED INDICTMENTS, INFORMATIONS, OR
26 COMPLAINTS THAT FORM THE BASIS OF THE DETAINEE OR DETAINEES OR FOR
27 PROSECUTION ON ANY OTHER CHARGE OR CHARGES ARISING OUT OF THE SAME
28 TRANSACTION. EXCEPT FOR THE PRISONER'S ATTENDANCE AT COURT AND WHILE
29 BEING TRANSPORTED TO OR FROM ANY PLACE AT WHICH THE PRISONER'S
30 PRESENCE MAY BE REQUIRED, THE PRISONER SHALL BE HELD IN A SUITABLE JAIL
31 OR OTHER FACILITY REGULARLY USED FOR PERSONS AWAITING PROSECUTION.

32 (E) RETURN OF PRISONER TO SENDING STATE.

33 AT THE EARLIEST PRACTICABLE TIME CONSONANT WITH THE PURPOSES OF
34 THIS AGREEMENT, THE PRISONER SHALL BE RETURNED TO THE SENDING STATE.

35 (F) CREDIT FOR TIME SERVED IN TEMPORARY CUSTODY.

36 DURING THE CONTINUANCE OF TEMPORARY CUSTODY OR WHILE THE
37 PRISONER IS OTHERWISE BEING MADE AVAILABLE FOR TRIAL AS REQUIRED BY THIS
38 AGREEMENT, TIME BEING SERVED ON THE SENTENCE SHALL CONTINUE TO RUN
39 BUT GOOD TIME SHALL BE EARNED BY THE PRISONER ONLY IF, AND TO THE EXTENT

1 THAT, THE LAW AND PRACTICE OF THE JURISDICTION THAT IMPOSED THE
2 SENTENCE MAY ALLOW.

3 (G) ESCAPE FROM TEMPORARY CUSTODY.

4 FOR ALL PURPOSES OTHER THAN THAT FOR WHICH TEMPORARY CUSTODY AS
5 PROVIDED IN THIS AGREEMENT IS EXERCISED, THE PRISONER SHALL BE DEEMED TO
6 REMAIN IN THE CUSTODY OF AND SUBJECT TO THE JURISDICTION OF THE SENDING
7 STATE. ANY ESCAPE FROM TEMPORARY CUSTODY MAY BE DEALT WITH IN THE SAME
8 MANNER AS AN ESCAPE FROM THE ORIGINAL PLACE OF IMPRISONMENT OR IN ANY
9 OTHER MANNER PERMITTED BY LAW.

10 (H) RESPONSIBILITY OF RECEIVING STATE FOR PRISONER AND COSTS.

11 FROM THE TIME THAT A PARTY STATE RECEIVES CUSTODY OF A PRISONER
12 UNDER THIS AGREEMENT UNTIL THE PRISONER IS RETURNED TO THE TERRITORY
13 AND CUSTODY OF THE SENDING STATE, THE STATE IN WHICH THE ONE OR MORE
14 UNTRIED INDICTMENTS, INFORMATIONS, OR COMPLAINTS ARE PENDING OR IN
15 WHICH TRIAL IS BEING HAD SHALL BE RESPONSIBLE FOR THE PRISONER AND SHALL
16 ALSO PAY ALL COSTS OF TRANSPORTING, CARING FOR, KEEPING, AND RETURNING
17 THE PRISONER. THE PROVISIONS OF THIS SUBSECTION SHALL GOVERN UNLESS THE
18 STATES CONCERNED SHALL HAVE ENTERED INTO A SUPPLEMENTARY AGREEMENT
19 PROVIDING FOR A DIFFERENT ALLOCATION OF COSTS AND RESPONSIBILITIES AS
20 BETWEEN OR AMONG THEMSELVES. NOTHING HEREIN CONTAINED SHALL BE
21 CONSTRUED TO ALTER OR AFFECT ANY INTERNAL RELATIONSHIP AMONG THE
22 DEPARTMENTS, AGENCIES, AND OFFICERS OF AND IN THE GOVERNMENT OF A PARTY
23 STATE, OR BETWEEN A PARTY STATE AND ITS SUBDIVISIONS, AS TO THE PAYMENT OF
24 COSTS, OR RESPONSIBILITIES THEREFOR.

25 REVISOR'S NOTE: This section formerly was Art. 27, § 616F.

26 In subsections (b) and (d) of this section, gender neutral terms are
27 substituted for the former pronoun "his" because SG § 2-1238 requires the
28 use of words that are "neutral as to gender".

29 The only other changes are in style.

30 Defined terms: "Agreement" § 8-401

31 "Appropriate court" § 8-401

32 "Person" § 1-101

33 "Receiving state" § 8-404

34 "Sending state" § 8-404

35 "State" § 8-404

36 8-408. SAME -- TOLLING OF TIME PERIODS WHEN PRISONER UNABLE TO STAND
37 TRIAL; MENTALLY ILL INDIVIDUALS.

38 ARTICLE VI

39 (A) COMPUTATION OF TIME PERIODS.

1 IN DETERMINING THE DURATION AND EXPIRATION DATES OF THE TIME
 2 PERIODS PROVIDED IN §§ 8-405 AND 8-406 OF THIS SUBTITLE (ARTICLES III AND IV OF
 3 THE AGREEMENT), THE RUNNING OF THESE TIME PERIODS SHALL BE TOLLED
 4 WHENEVER AND FOR AS LONG AS THE PRISONER IS UNABLE TO STAND TRIAL, AS
 5 DETERMINED BY THE COURT HAVING JURISDICTION OF THE MATTER.

6 (B) INAPPLICABILITY OF AGREEMENT TO MENTALLY ILL INDIVIDUALS.

7 NO PROVISION OF THIS AGREEMENT, AND NO REMEDY MADE AVAILABLE BY
 8 THIS AGREEMENT, SHALL APPLY TO ANY PERSON WHO IS ADJUDGED TO BE
 9 MENTALLY ILL.

10 REVISOR'S NOTE: This section formerly was Art. 27, § 616G.

11 The only changes are in style.

12 Defined terms: "Agreement" § 8-401

13 "Person" § 1-101

14 8-409. SAME -- DESIGNATION OF OFFICER TO PROMULGATE RULES AND PROVIDE
 15 INFORMATION.

16 ARTICLE VII

17 EACH STATE PARTY TO THIS AGREEMENT SHALL DESIGNATE AN OFFICER WHO,
 18 ACTING JOINTLY WITH LIKE OFFICERS OF OTHER PARTY STATES, SHALL
 19 PROMULGATE RULES AND REGULATIONS TO CARRY OUT MORE EFFECTIVELY THE
 20 TERMS AND PROVISIONS OF THIS AGREEMENT, AND WHO SHALL PROVIDE, WITHIN
 21 AND WITHOUT THE STATE, INFORMATION NECESSARY TO THE EFFECTIVE
 22 OPERATION OF THIS AGREEMENT.

23 REVISOR'S NOTE: This section formerly was Art. 27, § 616H.

24 No changes are made.

25 Defined terms: "Agreement" § 8-401

26 "State" § 8-404

27 8-410. SAME -- EFFECTIVE DATE OF AGREEMENT; WITHDRAWAL FROM AGREEMENT.

28 ARTICLE VIII

29 THIS AGREEMENT SHALL ENTER INTO FULL FORCE AND EFFECT AS TO A PARTY
 30 STATE WHEN THE STATE HAS ENACTED THIS AGREEMENT INTO LAW. A STATE PARTY
 31 TO THIS AGREEMENT MAY WITHDRAW HEREFROM BY ENACTING A STATUTE
 32 REPEALING THE AGREEMENT. HOWEVER, THE WITHDRAWAL OF ANY STATE SHALL
 33 NOT AFFECT THE STATUS OF ANY PROCEEDINGS ALREADY INITIATED BY PRISONERS
 34 OR BY STATE OFFICERS AT THE TIME THE WITHDRAWAL TAKES EFFECT, NOR SHALL
 35 IT AFFECT THEIR RIGHTS IN RESPECT THEREOF.

1 REVISOR'S NOTE: This section formerly was Art. 27, § 616-I.

2 The only changes are in style.

3 Defined terms: "Agreement" § 8-401

4 "State" § 8-404

5 8-411. SAME -- CONSTRUCTION OF AGREEMENT; SEVERABILITY OF PROVISIONS.

6 ARTICLE IX

7 THIS AGREEMENT SHALL BE LIBERALLY CONSTRUED SO AS TO EFFECTUATE
8 ITS PURPOSES. THE PROVISIONS OF THIS AGREEMENT SHALL BE SEVERABLE AND IF
9 ANY PHRASE, CLAUSE, SENTENCE, OR PROVISION OF THIS AGREEMENT IS DECLARED
10 TO BE CONTRARY TO THE CONSTITUTION OF ANY PARTY STATE OR OF THE UNITED
11 STATES OR THE APPLICABILITY THEREOF TO ANY GOVERNMENT, AGENCY, PERSON,
12 OR CIRCUMSTANCE IS HELD INVALID, THE VALIDITY OF THE REMAINDER OF THIS
13 AGREEMENT AND THE APPLICABILITY OF THE REMAINDER OF THIS AGREEMENT TO
14 ANY GOVERNMENT, AGENCY, PERSON, OR CIRCUMSTANCE SHALL NOT BE AFFECTED
15 THEREBY. IF THIS AGREEMENT SHALL BE HELD CONTRARY TO THE CONSTITUTION
16 OF ANY STATE PARTY HERETO, THE AGREEMENT SHALL REMAIN IN FULL FORCE AND
17 EFFECT AS TO THE REMAINING STATES AND IN FULL FORCE AND EFFECT AS TO THE
18 STATE AFFECTED AS TO ALL SEVERABLE MATTERS.

19 REVISOR'S NOTE: This section formerly was Art. 27, § 616J.

20 The only changes are in style.

21 Defined terms: "Agreement" § 8-401

22 "Person" § 1-101

23 "State" § 8-404

24 8-412. ENFORCEMENT OF AGREEMENT.

25 ALL COURTS, DEPARTMENTS, AGENCIES, OFFICERS, AND EMPLOYEES OF THE
26 STATE AND ITS POLITICAL SUBDIVISIONS SHALL ENFORCE THE AGREEMENT AND
27 COOPERATE WITH ONE ANOTHER AND OTHER PARTY STATES IN ENFORCING THE
28 AGREEMENT AND EFFECTUATING ITS PURPOSE.

29 REVISOR'S NOTE: This section formerly was Art. 27, § 616L.

30 The reference to "shall" is substituted for the former phrase, "are hereby
31 directed to", for consistency throughout the article with regard to
32 mandatory language.

33 The only other changes are in style.

34 Defined terms: "Agreement" § 8-401

35 "State" § 1-101

1 8-413. PUNISHMENT FOR ESCAPE FROM TEMPORARY CUSTODY.

2 IF AN INDIVIDUAL LEGALLY DETAINED AND CONFINED IN A CORRECTIONAL
 3 INSTITUTION IN THIS STATE, WHO, BY REASON OF APPLICATION OF THE
 4 AGREEMENT, IS DELIVERED INTO TEMPORARY CUSTODY OF A PARTY STATE AS
 5 PROVIDED IN § 8-407 OF THIS SUBTITLE (ARTICLE V OF THE AGREEMENT) AND
 6 SUBSEQUENTLY ESCAPES OR ATTEMPTS TO ESCAPE FROM THE TEMPORARY
 7 CUSTODY, THE ESCAPE OR ATTEMPT TO ESCAPE SHALL BE PUNISHABLE UNDER THE
 8 LAWS OF THIS STATE AS IF THE INDIVIDUAL HAD ESCAPED OR ATTEMPTED TO
 9 ESCAPE FROM A CORRECTIONAL INSTITUTION IN THIS STATE.

10 REVISOR'S NOTE: This section formerly was Art. 27, § 616M.

11 The reference to an "individual" who is legally detained and confined is
 12 substituted for the former reference to an "offender or person" who is
 13 legally detained and confined for brevity.

14 The word "individual" is substituted for the former pronoun "he" because
 15 SG § 2-1238 requires the use of words that are "neutral as to gender".

16 The only other changes are in style.

17 Defined terms: "Agreement" § 8-401

18 "Correctional institution" § 8-401

19 "State" § 1-101

20 8-414. TRANSFER OF INMATE.

21 THE MANAGING OFFICIAL OF A CORRECTIONAL INSTITUTION IN THIS STATE
 22 SHALL TRANSFER AN INMATE AS REQUIRED BY OPERATION OF THE AGREEMENT.

23 REVISOR'S NOTE: This section formerly was Art. 27, § 616N.

24 The former reference to the "lawful and mandatory" requirement that a
 25 managing official transfer an inmate is deleted as unnecessary in light of
 26 the requirement that a managing official "shall" transfer an inmate. The
 27 word "shall" is used throughout this article to state a mandate.

28 The reference to a managing official's duty to "transfer an inmate as
 29 required" is substituted for the former reference to the managing official's
 30 duty to "give over the person of any inmate thereof whenever so required"
 31 for brevity.

32 The only other changes are in style.

33 Defined terms: "Agreement" § 8-401

34 "Correctional institution" § 8-401

35 "Inmate" § 1-101

36 "Managing official" § 1-101

1 8-415. DUTIES OF THE ATTORNEY GENERAL.

2 THE ATTORNEY GENERAL IS DESIGNATED AS THE OFFICER TO CARRY OUT THE
3 PROVISIONS OF § 8-409 OF THIS SUBTITLE (ARTICLE VII OF THE AGREEMENT) AND TO
4 ADOPT REGULATIONS AS STIPULATED IN THAT SECTION.

5 REVISOR'S NOTE: This section formerly was Art. 27, § 616-O.

6 The former reference to "rules" is deleted in light of the reference to
7 "regulations" and for consistency throughout this article. See General
8 Revisor's Note to this article.

9 The only other changes are in style.

10 Defined term: "Agreement" § 8-401

11 8-416. ACTUAL RECEIPT OF NOTICE REQUIRED.

12 AS TO ANY REQUEST BY AN INDIVIDUAL CONFINED IN ANOTHER PARTY STATE
13 FOR TRIAL IN THIS STATE, WRITTEN NOTICE MAY NOT BE DEEMED TO HAVE BEEN
14 DELIVERED TO THE PROSECUTING OFFICER AND THE APPROPRIATE COURT OF THIS
15 STATE IN ACCORDANCE WITH § 8-405(A) (ARTICLE III (A) OF THE AGREEMENT) OF
16 THIS SUBTITLE AND NOTIFICATION MAY NOT BE DEEMED TO HAVE BEEN GIVEN IN
17 ACCORDANCE WITH § 8-405(D) OR § 8-406(B) OF THIS SUBTITLE (ARTICLE III (D) AND
18 ARTICLE IV (B) OF THE AGREEMENT) UNTIL THE NOTICE OR NOTIFICATION IS
19 ACTUALLY RECEIVED BY THE APPROPRIATE COURT AND THE APPROPRIATE STATE'S
20 ATTORNEY OF THIS STATE, THE STATE'S ATTORNEY'S DEPUTY OR ASSISTANT, OR ANY
21 OTHER PERSON EMPOWERED TO RECEIVE MAIL ON BEHALF OF THE STATE'S
22 ATTORNEY.

23 REVISOR'S NOTE: This section formerly was Art. 27, § 616Q.

24 The reference to an "individual" who is confined is substituted for the
25 former reference to a "person" who is confined because only a human
26 being, and not the other entities included in the defined term "person", can
27 be confined. See § 1-101 of this article for the definition of "person".

28 The reference to "confined" is substituted for the former reference to
29 "imprisoned" for consistency with terminology used throughout this
30 article. See General Revisor's Note to this article.

31 The first reference to the words "may not" is substituted for the former
32 reference to the words "shall not" for consistency throughout this article in
33 stating a prohibition (i.e., stating the prohibition against considering
34 notice to have been delivered until it is actually received). For the same
35 reason, the second reference to the words "may not" is substituted for the
36 former reference to the words "nor shall" (i.e., stating the prohibition
37 against considering notification to have been given until it is actually
38 received).

1 A gender neutral term is substituted for the former pronoun "his" because
2 SG § 2-1238 requires the use of words that are "neutral as to gender".

3 The only other changes are in style.

4 Defined terms: "Agreement" § 8-401

5 "Appropriate court" § 8-401

6 "Person" § 1-101

7 "State" § 1-101

8 8-417. DETERMINATION OF CREDIT FOR TIME SERVED.

9 AN INDIVIDUAL DELIVERED TO THE CUSTODY OF ANOTHER PARTY STATE
10 UNDER THIS SUBTITLE SHALL BE ALLOWED OR SHALL FORFEIT ANY DIMINUTION OF
11 THE INDIVIDUAL'S TERM OF CONFINEMENT UNDER TITLE 3, SUBTITLE 7 OF THIS
12 ARTICLE AS MAY BE DETERMINED BY THE COMMISSIONER OF CORRECTION IN EACH
13 CASE.

14 REVISOR'S NOTE: This section formerly was Art. 27, § 616R.

15 The reference to "[a]n individual" who is delivered into custody is
16 substituted for the former reference to "[a] person" who is delivered into
17 custody because only a human being, and not the other entities included in
18 the defined term "person", can be held in custody. See § 1-101 of this
19 article for the definition of "person".

20 The reference to an individual's "term" of confinement is substituted for
21 the former reference to an individual's "period" of confinement for
22 consistency throughout this article. See General Revisor's Note to this
23 article.

24 A gender neutral term is substituted for the former pronoun "his" because
25 SG § 2-1238 requires the use of words that are "neutral as to gender".

26 The only other changes are in style.

27 Defined terms: "Commissioner of Correction" § 1-101

28 "State" § 1-101

29 GENERAL REVISOR'S NOTE:

30 In revising the various articles of the Annotated Code, it was the usual practice
31 of the former Commission to Revise the Annotated Code and article review
32 committees to make very few, if any, changes to interstate Agreements. The
33 Correctional Services Article Review Committee has made only minor technical and
34 stylistic changes to the Interstate Agreement on Detainers, which comprises §§ 8-402
35 through 8-411 of this subtitle. These changes include conforming cross-references to
36 other sections within the Agreement, making other minor changes to conform with
37 current drafting conventions, and deleting pronouns and other words that are not
38 neutral as to gender. These changes do not affect the substance of the Agreement.

SUBTITLE 5. INTRASTATE DETAINERS.

2 8-501. LEGISLATIVE FINDINGS; POLICY; PURPOSE.

3 (A) LEGISLATIVE FINDINGS.

4 OUTSTANDING CHARGES AGAINST AN INMATE AND DETAINERS BASED ON
5 UNTRIED INDICTMENTS, INFORMATIONS, WARRANTS, OR COMPLAINTS PRODUCE
6 UNCERTAINTIES THAT:

7 (1) OBSTRUCT PROGRAMS OF INMATE TREATMENT AND
8 REHABILITATION; AND

9 (2) CAUSE AN INMATE SERVING A TERM UNDER A DETAINER TO SUFFER
10 SERIOUS DISADVANTAGES.

11 (B) POLICY; PURPOSE.

12 THE POLICY OF THE STATE AND THE PURPOSE OF THIS SUBTITLE IS TO
13 ENCOURAGE THE EXPEDITIOUS AND ORDERLY DISPOSITION OF OUTSTANDING
14 CHARGES AGAINST AN INMATE AND DETERMINATION OF THE PROPER STATUS OF
15 ANY DETAINERS BASED ON UNTRIED INDICTMENTS, INFORMATIONS, WARRANTS, OR
16 COMPLAINTS.

17 REVISOR'S NOTE: This section is new language derived without substantive
18 change from former Art. 27, § 616S(a).

19 Defined term: "Inmate" § 1-101

20 8-502. REQUEST BY INMATE FOR FINAL DISPOSITION.

21 (A) APPLICATION OF SECTION.

22 THIS SECTION APPLIES WHENEVER THE DIVISION OF CORRECTION, THE
23 PATUXENT INSTITUTION, OR ANY LOCAL CORRECTIONAL FACILITY RECEIVES
24 NOTICE OF AN UNTRIED INDICTMENT, INFORMATION, WARRANT, OR COMPLAINT
25 AGAINST AN INMATE WHO:

26 (1) IN THE CASE OF THE DIVISION OF CORRECTION, IS SERVING A
27 SENTENCE IN A CORRECTIONAL FACILITY IN THE DIVISION OF CORRECTION;

28 (2) IN THE CASE OF THE PATUXENT INSTITUTION, IS CONFINED AT THE
29 PATUXENT INSTITUTION AS AN ELIGIBLE PERSON OR FOR EVALUATION; OR

30 (3) IN THE CASE OF A LOCAL CORRECTIONAL FACILITY, IS SERVING A
31 SENTENCE IN THE LOCAL CORRECTIONAL FACILITY.

32 (B) REQUIREMENT FOR TRIAL WITHIN SPECIFIED TIME.

1 AN INMATE SHALL BE BROUGHT TO TRIAL WITHIN 120 DAYS AFTER THE
 2 INMATE HAS DELIVERED A WRITTEN REQUEST FOR A FINAL DISPOSITION OF THE
 3 INDICTMENT, INFORMATION, WARRANT, OR COMPLAINT TO:

4 (1) THE STATE'S ATTORNEY OF THE COUNTY IN WHICH THE
 5 INDICTMENT, INFORMATION, WARRANT, OR COMPLAINT IS PENDING; AND

6 (2) THE APPROPRIATE COURT.

7 (C) STATEMENT OF AUTHORITIES HAVING CUSTODY OF INMATE.

8 THE REQUEST FOR FINAL DISPOSITION REQUIRED UNDER SUBSECTION (B) OF
 9 THIS SECTION SHALL BE ACCOMPANIED BY A STATEMENT FROM THE MANAGING
 10 OFFICIAL HAVING IMMEDIATE SUPERVISION OVER THE INMATE SETTING FORTH:

11 (1) THE INMATE'S TERM OF CONFINEMENT;

12 (2) THE TIME ALREADY SERVED;

13 (3) THE TIME REMAINING TO BE SERVED;

14 (4) THE AMOUNT OF DIMINUTION CREDITS AWARDED FOR GOOD
 15 CONDUCT;

16 (5) THE DATE OF PAROLE ELIGIBILITY FOR THE INMATE; AND

17 (6) ANY DECISION OF THE MARYLAND PAROLE COMMISSION RELATING
 18 TO THE INMATE.

19 (D) AUTHORITY OF COURT TO GRANT A CONTINUANCE.

20 FOR GOOD CAUSE SHOWN IN OPEN COURT, WITH THE INMATE OR THE INMATE'S
 21 COUNSEL PRESENT, THE COURT HAVING JURISDICTION OF THE MATTER MAY GRANT
 22 ANY NECESSARY OR REASONABLE CONTINUANCE.

23 REVISOR'S NOTE: This section is new language derived without substantive
 24 change from former Art. 27, § 616S(b).

25 In subsection (a)(1) of this section, the reference to a correctional "facility
 26 in" the Division of Correction is substituted for the former reference to a
 27 correctional "institution under the jurisdiction of" the Division of
 28 Correction for consistency with terminology throughout this article. See
 29 General Revisor's Note to this article.

30 In subsection (c)(1) of this section, the reference to an inmate's term of
 31 "confinement" is substituted for the former reference to an inmate's term of
 32 "commitment" for consistency throughout this article. See General
 33 Revisor's Note to this article.

34 The Correctional Services Article Review Committee notes, for
 35 consideration by the General Assembly, that subsection (a)(2) of this

1 section refers only to those inmates who are authorized under Title 4,
2 Subtitle 3 of this article to participate in the "eligible person" program at
3 the Patuxent Institution. Subsection (a)(2) does not apply to inmates who
4 are in the Patuxent Institution Youth Program, as authorized under Title
5 4, Subtitle 4 of this article, or to inmates of the Division of Correction who
6 are confined in the Patuxent Institution, as authorized under § 2-117 of
7 this article. The General Assembly may wish to amend this provision to
8 refer to "any inmate who is confined in the Patuxent Institution". This
9 language is broad enough to include all inmates at the Patuxent
10 Institution, including those inmates who are there for evaluation before
11 sentencing.

12 In the introductory language of subsection (c) of this section, the reference
13 to the managing official who has "immediate supervision over" an inmate
14 is substituted for the former reference to the managing official who has
15 "custody of" an inmate for accuracy. Inmates of a correctional facility are
16 sometimes held in the custody of someone other than the managing official
17 of the correctional facility but are nevertheless under the immediate
18 supervision of the managing official. See generally § 9-103 of this article
19 (which requires a judge who sentences an inmate to the jurisdiction of the
20 Division of Correction to place the inmate in the custody of the
21 Commissioner of Correction).

22 In subsection (c)(3) of this section, the former reference to the time
23 remaining to be served "on the sentence" is deleted as implicit in the
24 reference to the "time remaining to be served".

25 In subsection (c)(4) of this section, the reference to "diminution credits
26 awarded for good conduct" is substituted for the former reference to "good
27 time earned" for consistency with §§ 3-709 and 11-507 of this article.

28 The Correctional Services Article Review Committee notes, for
29 consideration by the General Assembly, that subsection (c)(4) of this
30 section refers to diminution credits awarded to an inmate for "good
31 conduct" rather than to any type of diminution credits awarded to an
32 inmate. The term "diminution credits" refers to various types of credit for
33 diminution of an inmate's term of confinement, including those that are
34 awarded for good conduct, completion of work assignments, vocational or
35 educational progress, and completion of special selected work projects. All
36 of these types of diminution credits are used to calculate an inmate's
37 mandatory supervision release date from a State correctional facility or an
38 inmate's expiration release date from a local correctional facility. See
39 generally Title 3, Subtitle 7 and Title 11, Subtitle 5 of this article. The
40 General Assembly may wish to amend this provision to refer to the amount
41 of "diminution credits" awarded to an inmate.

42 The Correctional Services Article Review Committee further notes, that
43 subsection (c)(6) of this section is limited to decisions of the Maryland
44 Parole Commission. The General Assembly may wish to amend this

1 provision to include parole decisions made by the Board of Review at the
2 Patuxent Institution, which makes parole decisions regarding "eligible
3 persons" at the Patuxent Institution. The General Assembly may also wish
4 to amend this provision to refer to "the most recent decision" rather than
5 "any decision" because the most recent parole decision is the relevant
6 decision in the context of intrastate detainees.

7 Defined terms: "Correctional facility" § 1-101

8 "County" § 1-101

9 "Division of Correction" § 1-101

10 "Inmate" § 1-101

11 "Local correctional facility" § 1-101

12 "Managing official" § 1-101

13 8-503. RECEIPT OF NOTICE OF UNTRIED INDICTMENT.

14 (A) DIVISION OF CORRECTION.

15 ON RECEIPT OF NOTICE OF AN UNTRIED INDICTMENT, INFORMATION,
16 WARRANT, OR COMPLAINT AGAINST AN INMATE WHO IS SERVING A SENTENCE IN A
17 CORRECTIONAL FACILITY IN THE DIVISION OF CORRECTION OR AGAINST AN INMATE
18 WHO IS CONFINED AS AN ELIGIBLE PERSON OR FOR EVALUATION AT THE PATUXENT
19 INSTITUTION, THE DIVISION OF CORRECTION SHALL PROMPTLY NOTIFY THE
20 MANAGING OFFICIAL OF THE CORRECTIONAL FACILITY IN WHICH THE INMATE IS
21 CONFINED OF THE DETAINER LODGED AGAINST THE INMATE AND OF THE UNTRIED
22 INDICTMENT, INFORMATION, WARRANT, OR COMPLAINT ON WHICH IT IS BASED.

23 (B) DUTY TO INFORM INMATE.

24 WITHIN 15 DAYS AFTER RECEIVING NOTICE OF A DETAINER AND THE UNTRIED
25 INDICTMENT, INFORMATION, WARRANT, OR COMPLAINT ON WHICH IT IS BASED, THE
26 MANAGING OFFICIAL HAVING IMMEDIATE SUPERVISION OVER THE INMATE SHALL
27 INFORM THE INMATE IN WRITING:

28 (1) OF THE SOURCE AND CONTENTS OF THE DETAINER LODGED
29 AGAINST THE INMATE; AND

30 (2) OF THE INMATE'S RIGHT TO MAKE A REQUEST FOR FINAL
31 DISPOSITION OF THE INDICTMENT, INFORMATION, WARRANT, OR COMPLAINT ON
32 WHICH THE DETAINER IS BASED.

33 (C) DISMISSAL OF INDICTMENT.

34 IF AN INMATE IS NOT INFORMED WITHIN 1 YEAR OF A DETAINER LODGED
35 AGAINST THE INMATE AND OF THE INMATE'S RIGHT TO MAKE A REQUEST FOR FINAL
36 DISPOSITION OF THE INDICTMENT, INFORMATION, WARRANT, OR COMPLAINT ON
37 WHICH THE DETAINER IS BASED:

38 (1) THE COURT SHALL NO LONGER HAVE JURISDICTION OVER THE
39 INDICTMENT, INFORMATION, WARRANT, OR COMPLAINT;

1 (2) THE UNTRIED INDICTMENT, INFORMATION, WARRANT, OR
2 COMPLAINT SHALL HAVE NO FURTHER FORCE OR EFFECT; AND

3 (3) THE COURT SHALL ENTER AN ORDER DISMISSING THE UNTRIED
4 INDICTMENT, INFORMATION, WARRANT, OR COMPLAINT WITHOUT PREJUDICE.

5 (D) DUTY TO FILE INMATE'S REQUEST FOR FINAL DISPOSITION.

6 (1) AN INMATE WHO HAS BEEN NOTIFIED OF A DETAINER LODGED
7 AGAINST THE INMATE MAY REQUEST THAT THE MANAGING OFFICIAL HAVING
8 IMMEDIATE SUPERVISION OVER THE INMATE FILE THE INMATE'S REQUEST FOR
9 FINAL DISPOSITION OF THE UNTRIED INDICTMENT, INFORMATION, WARRANT, OR
10 COMPLAINT, ALONG WITH THE STATEMENT REQUIRED UNDER SUBSECTION (B) OF
11 THIS SECTION.

12 (2) WITHIN 30 DAYS AFTER RECEIPT OF AN INMATE'S REQUEST UNDER
13 PARAGRAPH (1) OF THIS SUBSECTION, THE MANAGING OFFICIAL HAVING CUSTODY
14 OF THE INMATE SHALL FILE THE INMATE'S REQUEST FOR FINAL DISPOSITION AND
15 THE STATEMENT REQUIRED UNDER SUBSECTION (B) OF THIS SECTION WITH THE
16 APPROPRIATE STATE'S ATTORNEY AND THE APPROPRIATE COURT.

17 (3) THE MANAGING OFFICIAL SHALL FILE THE INMATE'S REQUEST FOR
18 FINAL DISPOSITION AND THE REQUIRED STATEMENT BY CERTIFIED MAIL, RETURN
19 RECEIPT REQUESTED.

20 (E) DISMISSAL.

21 IF THE UNTRIED INDICTMENT, INFORMATION, WARRANT, OR COMPLAINT FOR
22 WHICH REQUEST FOR FINAL DISPOSITION IS MADE IS NOT BROUGHT TO TRIAL
23 WITHIN THE TIME LIMITATION ESTABLISHED UNDER § 8-502 OF THIS SUBTITLE:

24 (1) THE COURT NO LONGER HAS JURISDICTION OVER THE UNTRIED
25 INDICTMENT, INFORMATION, WARRANT, OR COMPLAINT;

26 (2) THE UNTRIED INDICTMENT, INFORMATION, WARRANT, OR
27 COMPLAINT HAS NO FURTHER FORCE OR EFFECT; AND

28 (3) THE COURT, ON REQUEST OF THE INMATE OR THE INMATE'S
29 COUNSEL, SHALL ENTER AN ORDER DISMISSING THE UNTRIED INDICTMENT,
30 INFORMATION, WARRANT, OR COMPLAINT WITHOUT PREJUDICE.

31 (F) TRANSPORTATION OF INMATE.

32 (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE
33 SHERIFF OF THE COUNTY IN WHICH AN UNTRIED INDICTMENT, INFORMATION,
34 WARRANT, OR COMPLAINT IS PENDING SHALL TRANSPORT THE INMATE BETWEEN
35 THE INMATE'S PLACE OF CONFINEMENT AND THE COUNTY IN WHICH THE UNTRIED
36 INDICTMENT, INFORMATION, WARRANT, OR COMPLAINT IS PENDING.

1 (2) ON THE REQUEST OF THE SHERIFF, THE TRANSPORTATION MAY BE
2 FURNISHED BY THE CORRECTIONAL FACILITY IN WHICH THE INMATE IS CONFINED.

3 REVISOR'S NOTE: This section is new language derived without substantive
4 change from former Art. 27, § 616S(c), (d), (e), and (f).

5 In subsection (a) of this section, the reference to a correctional "facility in"
6 the Division of Correction is substituted for the former reference to a
7 correctional "institution under the jurisdiction of" the Division of
8 Correction for consistency with terminology throughout this article. See
9 General Revisor's Note to this article.

10 The Correctional Services Article Review Committee notes, for
11 consideration by the General Assembly, that subsection (a) of this section
12 refers only to those inmates who are authorized under Title 4, Subtitle 3 of
13 this article to participate in the "eligible person" program at the Patuxent
14 Institution. Subsection (a) does not apply to inmates who are in the
15 Patuxent Institution Youth Program, as authorized under Title 4, Subtitle
16 4 of this article, or to inmates of the Division of Correction who are
17 confined in the Patuxent Institution, as authorized under § 2-117 of this
18 article. The General Assembly may wish to amend this provision to refer to
19 "any inmate who is confined in the Patuxent Institution". This language is
20 broad enough to include all inmates at the Patuxent Institution, including
21 those inmates who are there for evaluation before sentencing.

22 In the introductory language of subsections (b) and (d)(1) of this section,
23 the references to the managing official who has "immediate supervision
24 over" an inmate are substituted for the former reference to the managing
25 official who has "custody of" an inmate for accuracy. Inmates of a
26 correctional facility are sometimes held in the custody of someone other
27 than the managing official of the correctional facility but are under the
28 immediate supervision of the managing official. See generally § 9-103 of
29 this article (which requires a judge who sentences an inmate to the
30 jurisdiction of the Division of Correction to place the inmate in the custody
31 of the Commissioner of Correction).

32 In subsection (d)(2) of this section, the former reference to the duty to file
33 certain documents "upon notification by the prisoner" is deleted as
34 unnecessary in light of the more specific reference to the duty to file the
35 documents "[w]ithin 30 days after receipt of an inmate's request under
36 paragraph (1) of this subsection".

37 In subsection (e)(1) of this section, the reference to the court's jurisdiction
38 "over the untried indictment, information, warrant, or complaint" is added
39 to state expressly that which was only implied in the former law.

40 The Correctional Services Article Review Committee notes, for
41 consideration by the General Assembly, that subsections (c)(1) and (e)(1) of
42 this section are inconsistent with subsections (c)(3) and (e)(3) of this

1 section. Subsections (c)(1) and (e)(1) provide that a court "no longer has
 2 jurisdiction over the untried indictment, information, warrant, or
 3 complaint" if specified events do not occur within specified periods.
 4 However, subsections (c)(3) and (e)(3) require the court to "dismiss the
 5 untried indictment, information, warrant, or complaint" under the same
 6 circumstances. These provisions are in conflict because a court cannot
 7 dismiss an indictment, information, warrant, or complaint unless the court
 8 has jurisdiction over the matter. The General Assembly may wish to repeal
 9 subsections (c)(1) and (e)(1) as surplusage.

10 In subsection (f)(1) of this section, the former references to "city" are
 11 deleted as unnecessary because Baltimore City is included in the defined
 12 term "county". See § 1-101 of this article for the definition of "county".

13 Also in subsection (f)(1) of this section, the reference to a "warrant" is
 14 added for consistency with terminology throughout this subtitle.

15 In subsection (f)(2) of this section, the defined term "correctional facility" is
 16 substituted for the former reference to an "institution" for consistency with
 17 terminology throughout this article. See General Revisor's Note to this
 18 article.

19 Defined terms: "Correctional facility" § 1-101

20 "County" § 1-101

21 "Division of Correction" § 1-101

22 "Inmate" § 1-101

23 "Managing official" § 1-101

24 SUBTITLE 6. INTERSTATE CORRECTIONS COMPACT.

25 8-601. INAPPLICABILITY OF A CERTAIN DEFINITION.

26 THE DEFINITION OF "CORRECTIONAL FACILITY" IN § 1-101(D) OF THIS ARTICLE
 27 DOES NOT APPLY TO THE INTERSTATE CORRECTIONS COMPACT SET FORTH IN §§
 28 8-602 THROUGH 8-611 OF THIS SUBTITLE.

29 REVISOR'S NOTE: This section is new language added to avoid possible
 30 confusion over the applicability of the definition of "correctional facility" in
 31 § 1-101(d) of this article.

32 As to definitions applicable to the Interstate Corrections Compact, see §
 33 8-603 of this subtitle.

34 8-602. DECLARATION OF POLICY; PURPOSE OF COMPACT.

35 THE PARTY STATES, DESIRING BY COMMON ACTION TO FULLY UTILIZE AND
 36 IMPROVE THEIR INSTITUTIONAL FACILITIES AND PROVIDE ADEQUATE PROGRAMS
 37 FOR THE CONFINEMENT, TREATMENT, AND REHABILITATION OF VARIOUS TYPES OF
 38 OFFENDERS, DECLARE THAT IT IS THE POLICY OF EACH OF THE PARTY STATES TO
 39 PROVIDE SUCH FACILITIES AND PROGRAMS ON A BASIS OF COOPERATION WITH ONE

1 ANOTHER, THEREBY SERVING THE BEST INTERESTS OF SUCH OFFENDERS AND OF
2 SOCIETY AND EFFECTING ECONOMIES IN CAPITAL EXPENDITURES AND
3 OPERATIONAL COSTS. THE PURPOSE OF THIS COMPACT IS TO PROVIDE FOR THE
4 MUTUAL DEVELOPMENT AND EXECUTION OF SUCH PROGRAMS OF COOPERATION
5 FOR THE CONFINEMENT, TREATMENT, AND REHABILITATION OF OFFENDERS WITH
6 THE MOST ECONOMICAL USE OF HUMAN AND MATERIAL RESOURCES.

7 REVISOR'S NOTE: This section formerly was Art. 41, § 4-1201.

8 A comma is added after each of the references to "treatment".

9 No other changes are made.

10 As to the general policy of the Correctional Services Article Review
11 Committee concerning changes in interstate compacts, see General
12 Revisor's Note to this subtitle.

13 Defined term: "State" § 8-603

14 8-603. DEFINITIONS.

15 (A) IN GENERAL.

16 AS USED IN THIS COMPACT, UNLESS THE CONTEXT CLEARLY REQUIRES
17 OTHERWISE, THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

18 REVISOR'S NOTE: This subsection is new language derived without
19 substantive change from the introductory language of former Art. 41, §
20 4-1202.

21 (B) INMATE.

22 "INMATE" MEANS A MALE OR FEMALE OFFENDER WHO IS COMMITTED TO,
23 UNDER SENTENCE TO, OR CONFINED IN A PENAL OR CORRECTIONAL INSTITUTION.

24 REVISOR'S NOTE: This subsection formerly was Art. 41, § 4-1202(4).

25 The only changes are in style.

26 (C) INSTITUTION.

27 "INSTITUTION" MEANS ANY PENAL OR CORRECTIONAL FACILITY, INCLUDING
28 BUT NOT LIMITED TO A FACILITY FOR THE MENTALLY ILL OR MENTALLY DEFECTIVE,
29 IN WHICH INMATES MAY LAWFULLY BE CONFINED.

30 REVISOR'S NOTE: This subsection formerly was Art. 41, § 4-1202(5).

31 The former reference to inmates "as defined in (4) above" is deleted as
32 unnecessary in light of subsection (b) of this section which defines
33 "inmate".

1 No other changes are made.

2 Defined term: "Inmate" § 8-603

3 (D) RECEIVING STATE.

4 "RECEIVING STATE" MEANS A STATE PARTY TO THIS COMPACT TO WHICH AN
5 INMATE IS SENT FOR CONFINEMENT OTHER THAN A STATE IN WHICH CONVICTION
6 OR COURT COMMITMENT WAS HAD.

7 REVISOR'S NOTE: This subsection formerly was Art. 41, § 4-1202(3).

8 A period is substituted for a semicolon.

9 No other changes are made.

10 Defined terms: "Inmate" § 8-603

11 "State" § 8-603

12 (E) SENDING STATE.

13 "SENDING STATE" MEANS A STATE PARTY TO THIS COMPACT IN WHICH
14 CONVICTION OR COURT COMMITMENT WAS HAD.

15 REVISOR'S NOTE: This subsection formerly was Art. 41, § 4-1202(2).

16 A period is substituted for a semicolon.

17 No other changes are made.

18 Defined term: "State" § 8-603

19 (F) STATE.

20 "STATE" MEANS A STATE OF THE UNITED STATES, THE UNITED STATES OF
21 AMERICA, A TERRITORY OR POSSESSION OF THE UNITED STATES, THE DISTRICT OF
22 COLUMBIA, OR THE COMMONWEALTH OF PUERTO RICO.

23 REVISOR'S NOTE: This subsection formerly was Art. 41, § 4-1202(1).

24 A period is substituted for a semicolon.

25 No other changes are made.

26 REVISOR'S NOTE TO SECTION:

27 In this section, former paragraphs are redesignated as subsections and the
28 defined terms are placed in alphabetical order.

29 8-604. CONTRACTS FOR CONFINEMENT OF INMATES.

30 (A) CONTRACT PROVISIONS.

1 EACH PARTY STATE MAY MAKE ONE OR MORE CONTRACTS WITH ANY ONE OR
2 MORE OF THE OTHER PARTY STATES FOR THE CONFINEMENT OF INMATES ON
3 BEHALF OF A SENDING STATE IN INSTITUTIONS SITUATED WITHIN RECEIVING
4 STATES. ANY SUCH CONTRACT SHALL PROVIDE FOR:

5 (1) ITS DURATION;

6 (2) PAYMENTS TO BE MADE TO THE RECEIVING STATE BY THE SENDING
7 STATE FOR INMATE MAINTENANCE, EXTRAORDINARY MEDICAL AND DENTAL
8 EXPENSES, AND ANY PARTICIPATION IN OR RECEIPT BY INMATES OF
9 REHABILITATIVE OR CORRECTIONAL SERVICES, FACILITIES, PROGRAMS, OR
10 TREATMENT NOT REASONABLY INCLUDED AS PART OF NORMAL MAINTENANCE;

11 (3) PARTICIPATION IN PROGRAMS OF INMATE EMPLOYMENT, IF ANY,
12 THE DISPOSITION OR CREDITING OF ANY PAYMENTS RECEIVED BY INMATES ON
13 ACCOUNT THEREOF, AND THE CREDITING OF PROCEEDS FROM OR DISPOSAL OF ANY
14 PRODUCTS RESULTING THEREFROM;

15 (4) DELIVERY AND RETAKING OF INMATES;

16 (5) SUCH OTHER MATTERS AS MAY BE NECESSARY AND APPROPRIATE
17 TO FIX THE OBLIGATIONS, RESPONSIBILITIES, AND RIGHTS OF THE SENDING AND
18 RECEIVING STATES.

19 (B) COMPACT PART OF ANY CONTRACT.

20 THE TERMS AND PROVISIONS OF THIS COMPACT SHALL BE A PART OF ANY
21 CONTRACT ENTERED INTO BY THE AUTHORITY OF OR PURSUANT THERETO, AND
22 NOTHING IN ANY SUCH CONTRACT SHALL BE INCONSISTENT THEREWITH.

23 REVISOR'S NOTE: This section formerly was Art. 41, § 4-1203.

24 In subsection (a)(3) of this section, commas are substituted for semicolons
25 for consistency with similar provisions elsewhere in this article.

26 The only other changes are in style.

27 Defined terms: "Inmate" § 8-603

28 "Institution" § 8-603

29 "Receiving state" § 8-603

30 "Sending state" § 8-603

31 "State" § 8-603

32 8-605. RIGHTS, DUTIES, AND OBLIGATIONS OF PARTY STATES AND INMATES.

33 (A) RECEIVING STATE AGENT FOR SENDING STATE.

34 WHENEVER THE DULY CONSTITUTED AUTHORITIES IN A STATE PARTY TO THIS
35 COMPACT, AND WHICH HAS ENTERED INTO A CONTRACT PURSUANT TO § 8-604 OF
36 THIS SUBTITLE, SHALL DECIDE THAT CONFINEMENT IN, OR TRANSFER OF AN

1 INMATE TO, AN INSTITUTION WITHIN THE TERRITORY OF ANOTHER PARTY STATE IS
2 NECESSARY OR DESIRABLE IN ORDER TO PROVIDE ADEQUATE QUARTERS AND CARE
3 OR AN APPROPRIATE PROGRAM OF REHABILITATION OR TREATMENT, THE
4 OFFICIALS MAY DIRECT THAT THE CONFINEMENT BE WITHIN AN INSTITUTION
5 WITHIN THE TERRITORY OF THE OTHER PARTY STATE, THE RECEIVING STATE TO
6 ACT IN THAT REGARD SOLELY AS AGENT FOR THE SENDING STATE.

7 (B) ACCESS TO INSTITUTION IN RECEIVING STATE.

8 THE APPROPRIATE OFFICIALS OF ANY STATE PARTY TO THIS COMPACT SHALL
9 HAVE ACCESS, AT ALL REASONABLE TIMES, TO ANY INSTITUTION IN WHICH IT HAS A
10 CONTRACTUAL RIGHT TO CONFIN INMATES FOR THE PURPOSE OF INSPECTING THE
11 FACILITIES THEREOF AND VISITING SUCH OF ITS INMATES AS MAY BE CONFINED IN
12 THE INSTITUTION.

13 (C) JURISDICTION OF SENDING STATE OVER INMATES IN INSTITUTION IN
14 RECEIVING STATE.

15 INMATES CONFINED IN AN INSTITUTION PURSUANT TO THE TERMS OF THIS
16 COMPACT SHALL AT ALL TIMES BE SUBJECT TO THE JURISDICTION OF THE SENDING
17 STATE AND MAY AT ANY TIME BE REMOVED THEREFROM FOR TRANSFER TO A
18 PRISON OR OTHER INSTITUTION WITHIN THE SENDING STATE, FOR TRANSFER TO
19 ANOTHER INSTITUTION IN WHICH THE SENDING STATE MAY HAVE A CONTRACTUAL
20 OR OTHER RIGHT TO CONFIN INMATES, FOR RELEASE ON PROBATION OR PAROLE,
21 FOR DISCHARGE, OR FOR ANY OTHER PURPOSE PERMITTED BY THE LAWS OF THE
22 SENDING STATE. THE SENDING STATE SHALL CONTINUE TO BE OBLIGATED TO SUCH
23 PAYMENTS AS MAY BE REQUIRED PURSUANT TO THE TERMS OF ANY CONTRACT
24 ENTERED INTO UNDER THE TERMS OF § 8-604 OF THIS SUBTITLE.

25 (D) REPORTS BY RECEIVING STATE TO SENDING STATE.

26 EACH RECEIVING STATE SHALL PROVIDE REGULAR REPORTS TO EACH
27 SENDING STATE ON THE INMATES OF THAT SENDING STATE IN INSTITUTIONS
28 PURSUANT TO THIS COMPACT INCLUDING A CONDUCT RECORD OF EACH INMATE
29 AND CERTIFY THE RECORD TO THE OFFICIAL DESIGNATED BY THE SENDING STATE,
30 IN ORDER THAT EACH INMATE MAY HAVE OFFICIAL REVIEW OF THE INMATE'S
31 RECORD IN DETERMINING AND ALTERING THE DISPOSITION OF THE INMATE IN
32 ACCORDANCE WITH THE LAW WHICH MAY OBTAIN IN THE SENDING STATE AND IN
33 ORDER THAT THE SAME MAY BE A SOURCE OF INFORMATION FOR THE SENDING
34 STATE.

35 (E) TREATMENT OF INMATES; NO DEPRIVATION OF LEGAL RIGHTS.

36 ALL INMATES WHO MAY BE CONFINED IN AN INSTITUTION PURSUANT TO THE
37 PROVISIONS OF THIS COMPACT SHALL BE TREATED IN A REASONABLE AND HUMANE
38 MANNER AND SHALL BE TREATED EQUALLY WITH SUCH SIMILAR INMATES OF THE
39 RECEIVING STATE AS MAY BE CONFINED IN THE SAME INSTITUTION. THE FACT OF
40 CONFINEMENT IN A RECEIVING STATE SHALL NOT DEPRIVE ANY INMATE SO
41 CONFINED OF ANY LEGAL RIGHTS WHICH THE INMATE WOULD HAVE HAD IF
42 CONFINED IN AN APPROPRIATE INSTITUTION OF THE SENDING STATE.

1 (F) HEARINGS.

2 ANY HEARING OR HEARINGS TO WHICH AN INMATE CONFINED PURSUANT TO
3 THIS COMPACT MAY BE ENTITLED BY THE LAWS OF THE SENDING STATE MAY BE
4 HAD BEFORE THE APPROPRIATE AUTHORITIES OF THE SENDING STATE, OR OF THE
5 RECEIVING STATE IF AUTHORIZED BY THE SENDING STATE. THE RECEIVING STATE
6 SHALL PROVIDE ADEQUATE FACILITIES FOR SUCH HEARINGS AS MAY BE
7 CONDUCTED BY THE APPROPRIATE OFFICIALS OF A SENDING STATE. IN THE EVENT
8 SUCH HEARING OR HEARINGS ARE HAD BEFORE OFFICIALS OF THE RECEIVING
9 STATE, THE GOVERNING LAW SHALL BE THAT OF THE SENDING STATE AND A
10 RECORD OF THE HEARING OR HEARINGS AS PRESCRIBED BY THE SENDING STATE
11 SHALL BE MADE. THE RECORD, TOGETHER WITH ANY RECOMMENDATIONS OF THE
12 HEARING OFFICIALS, SHALL BE TRANSMITTED TO THE OFFICIAL OR OFFICIALS
13 BEFORE WHOM THE HEARING WOULD HAVE BEEN HAD IF IT HAD TAKEN PLACE IN
14 THE SENDING STATE. IN ANY AND ALL PROCEEDINGS HAD PURSUANT TO THE
15 PROVISIONS OF THIS SECTION, THE OFFICIALS OF THE RECEIVING STATE SHALL ACT
16 SOLELY AS AGENTS OF THE SENDING STATE AND NO FINAL DETERMINATION SHALL
17 BE MADE IN ANY MATTER EXCEPT BY THE APPROPRIATE OFFICIALS OF THE
18 SENDING STATE.

19 (G) RELEASE OF INMATES.

20 ANY INMATE CONFINED PURSUANT TO THIS COMPACT SHALL BE RELEASED
21 WITHIN THE TERRITORY OF THE SENDING STATE UNLESS THE INMATE, AND THE
22 SENDING AND RECEIVING STATES, SHALL AGREE UPON RELEASE IN SOME OTHER
23 PLACE. THE SENDING STATE SHALL BEAR THE COST OF SUCH RETURN TO ITS
24 TERRITORY.

25 (H) EFFECT ON RIGHTS, BENEFITS, AND OBLIGATIONS OF INMATE.

26 ANY INMATE CONFINED PURSUANT TO THE TERMS OF THIS COMPACT SHALL
27 HAVE ANY AND ALL RIGHTS TO PARTICIPATE IN AND DERIVE ANY BENEFITS OR
28 INCUR OR BE RELIEVED OF ANY OBLIGATIONS OR HAVE SUCH OBLIGATIONS
29 MODIFIED OR THE INMATE'S STATUS CHANGED ON ACCOUNT OF ANY ACTION OR
30 PROCEEDING IN WHICH THE INMATE COULD HAVE PARTICIPATED IF CONFINED IN
31 ANY APPROPRIATE INSTITUTION OF THE SENDING STATE LOCATED WITHIN SUCH
32 STATE.

33 (I) POWERS OF PARENT, GUARDIAN, OR TRUSTEE NOT AFFECTED.

34 THE PARENT, GUARDIAN, TRUSTEE, OR OTHER PERSON OR PERSONS ENTITLED
35 UNDER THE LAWS OF THE SENDING STATE TO ACT FOR, ADVISE, OR OTHERWISE
36 FUNCTION WITH RESPECT TO ANY INMATE SHALL NOT BE DEPRIVED OF OR
37 RESTRICTED IN THE EXERCISE OF ANY POWER IN RESPECT OF ANY INMATE
38 CONFINED PURSUANT TO THE TERMS OF THIS COMPACT.

39 REVISOR'S NOTE: This section formerly was Art. 41, § 4-1204.

40 In subsections (d), (h), and (i) of this section, gender neutral terms are
41 substituted for former references to "his or her", "his", and "his",

1 respectively, because SG § 2-1238 requires the use of words that are
2 "neutral as to gender".

3 The only other changes are in style.

4 Defined terms: "Inmate" § 8-603

5 "Institution" § 8-603

6 "Person" § 1-101

7 "Receiving state" § 8-603

8 "Sending state" § 8-603

9 "State" § 8-603

10 8-606. FINALITY OF DECISIONS; ESCAPES.

11 (A) FINALITY OF DECISIONS OF SENDING STATE.

12 ANY DECISION OF THE SENDING STATE IN RESPECT OF ANY MATTER OVER
13 WHICH IT RETAINS JURISDICTION PURSUANT TO THIS COMPACT SHALL BE
14 CONCLUSIVE UPON AND NOT REVIEWABLE WITHIN THE RECEIVING STATE, BUT IF
15 AT THE TIME THE SENDING STATE SEEKS TO REMOVE AN INMATE FROM AN
16 INSTITUTION IN THE RECEIVING STATE THERE IS PENDING AGAINST THE INMATE
17 WITHIN SUCH STATE ANY CRIMINAL CHARGE OR IF THE INMATE IS FORMALLY
18 ACCUSED OF HAVING COMMITTED WITHIN SUCH STATE A CRIMINAL OFFENSE, THE
19 INMATE SHALL NOT BE RETURNED WITHOUT THE CONSENT OF THE RECEIVING
20 STATE UNTIL DISCHARGED FROM PROSECUTION OR OTHER FORM OF PROCEEDING,
21 IMPRISONMENT, OR DETENTION FOR SUCH OFFENSE. THE DULY ACCREDITED
22 OFFICERS OF THE SENDING STATE SHALL BE PERMITTED TO TRANSPORT INMATES
23 PURSUANT TO THIS COMPACT THROUGH ANY AND ALL STATES PARTY TO THIS
24 COMPACT WITHOUT INTERFERENCE.

25 (B) ESCAPES.

26 AN INMATE WHO ESCAPES FROM AN INSTITUTION IN WHICH THE INMATE IS
27 CONFINED PURSUANT TO THIS COMPACT SHALL BE DEEMED A FUGITIVE FROM THE
28 SENDING STATE AND FROM THE STATE IN WHICH THE INSTITUTION IS SITUATED. IN
29 THE CASE OF AN ESCAPE TO A JURISDICTION OTHER THAN THE SENDING OR
30 RECEIVING STATE, THE RESPONSIBILITY FOR INSTITUTION OF EXTRADITION OR
31 RENDITION PROCEEDINGS SHALL BE THAT OF THE SENDING STATE, BUT NOTHING
32 CONTAINED HEREIN SHALL BE CONSTRUED TO PREVENT OR AFFECT THE
33 ACTIVITIES OF OFFICERS AND AGENCIES OF ANY JURISDICTION DIRECTED TOWARD
34 THE APPREHENSION AND RETURN OF AN ESCAPEE.

35 REVISOR'S NOTE: This section formerly was Art. 41, § 4-1205.

36 In subsection (b) of this section, the reference to "the inmate" is substituted
37 for the former pronoun "he" because SG § 2-1238 requires the use of words
38 that are "neutral as to gender".

39 The only other changes are in style.

1 Defined terms: "Inmate" § 8-603

2 "Institution" § 8-603

3 "Receiving state" § 8-603

4 "Sending state" § 8-603

5 "State" § 8-603

6 8-607. FEDERALLY AIDED PROGRAM OR ACTIVITY.

7 ANY STATE PARTY TO THIS COMPACT MAY ACCEPT FEDERAL AID FOR USE IN
8 CONNECTION WITH ANY INSTITUTION OR PROGRAM, THE USE OF WHICH IS OR MAY
9 BE AFFECTED BY THIS COMPACT OR ANY CONTRACT PURSUANT HERETO AND ANY
10 INMATE IN A RECEIVING STATE PURSUANT TO THIS COMPACT MAY PARTICIPATE IN
11 ANY SUCH FEDERALLY AIDED PROGRAM OR ACTIVITY FOR WHICH THE SENDING AND
12 RECEIVING STATES HAVE MADE CONTRACTUAL PROVISION. IF SUCH PROGRAM OR
13 ACTIVITY IS NOT PART OF THE CUSTOMARY CORRECTIONAL REGIMEN THE EXPRESS
14 CONSENT OF THE APPROPRIATE OFFICIAL OF THE SENDING STATE SHALL BE
15 REQUIRED THEREFOR.

16 REVISOR'S NOTE: This section formerly was Art. 41, § 4-1206.

17 No changes are made.

18 Defined terms: "Inmate" § 8-603

19 "Institution" § 8-603

20 "Receiving state" § 8-603

21 "Sending state" § 8-603

22 "State" § 8-603

23 8-608. WHEN COMPACT EFFECTIVE.

24 THIS COMPACT SHALL ENTER INTO FORCE AND BECOME EFFECTIVE AND
25 BINDING UPON THE STATES SO ACTING WHEN IT HAS BEEN ENACTED INTO LAW BY
26 ANY TWO STATES. THEREAFTER, THIS COMPACT SHALL ENTER INTO FORCE AND
27 BECOME EFFECTIVE AND BINDING AS TO ANY OTHER OF THE STATES UPON SIMILAR
28 ACTION BY SUCH STATE.

29 REVISOR'S NOTE: This section formerly was Art. 41, § 4-1207.

30 The only changes are in style.

31 Defined term: "State" § 8-603

32 8-609. WITHDRAWAL FROM COMPACT.

33 THIS COMPACT SHALL CONTINUE IN FORCE AND REMAIN BINDING UPON A
34 PARTY STATE UNTIL IT SHALL HAVE ENACTED A STATUTE REPEALING THE SAME
35 AND PROVIDING FOR THE SENDING OF FORMAL WRITTEN NOTICE OF WITHDRAWAL
36 FROM THE COMPACT TO THE APPROPRIATE OFFICIALS OF ALL OTHER PARTY
37 STATES. AN ACTUAL WITHDRAWAL SHALL NOT TAKE EFFECT UNTIL 1 YEAR AFTER

1 SHALL NOT RELIEVE THE WITHDRAWING STATE FROM ITS OBLIGATIONS ASSUMED
2 HEREUNDER PRIOR TO THE EFFECTIVE DATE OF WITHDRAWAL. BEFORE THE
3 EFFECTIVE DATE OF WITHDRAWAL, A WITHDRAWING STATE SHALL REMOVE TO ITS
4 TERRITORY, AT ITS OWN EXPENSE, SUCH INMATES AS IT MAY HAVE CONFINED
5 PURSUANT TO THE PROVISIONS OF THIS COMPACT.

6 REVISOR'S NOTE: This section formerly was Art. 41, § 4-1208.

7 The only changes are in style.

8 Defined terms: "Inmate" § 8-603

9 "State" § 8-603

10 8-610. AGREEMENT OR ARRANGEMENT WITH NONPARTY STATE.

11 NOTHING CONTAINED IN THIS COMPACT SHALL BE CONSTRUED TO ABROGATE
12 OR IMPAIR ANY AGREEMENT OR OTHER ARRANGEMENT WHICH A PARTY STATE MAY
13 HAVE WITH A NONPARTY STATE FOR THE CONFINEMENT, REHABILITATION, OR
14 TREATMENT OF INMATES NOR TO REPEAL ANY OTHER LAWS OF A PARTY STATE
15 AUTHORIZING THE MAKING OF COOPERATIVE INSTITUTIONAL ARRANGEMENTS.

16 REVISOR'S NOTE: This section formerly was Art. 41, § 4-1209.

17 The only changes are in style.

18 Defined terms: "Inmate" § 8-603

19 "State" § 8-603

20 8-611. POWERS OF THE SECRETARY OF DEPARTMENT OF PUBLIC SAFETY AND
21 CORRECTIONAL SERVICES.

22 THE SECRETARY OF THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL
23 SERVICES MAY DO ALL THINGS NECESSARY OR INCIDENTAL TO THE CARRYING OUT
24 OF THE COMPACT IN EVERY PARTICULAR.

25 REVISOR'S NOTE: This section formerly was Art. 41, § 4-1210.

26 No changes are made.

27 GENERAL REVISOR'S NOTE:

28 In revising the various articles of the Annotated Code, it was the usual practice
29 of the former Commission to Revise the Annotated Code and article review
30 committees to make very few, if any, changes to interstate compacts. The Correctional
31 Services Article Review Committee has made only minor technical and stylistic
32 changes to the Interstate Corrections Compact, which comprises §§ 8-602 through
33 8-611 of this subtitle. These changes include conforming cross-references to other
34 sections within the Compact, redesignating paragraphs as subsections, making other
35 minor changes to conform with current drafting conventions, and deleting pronouns

1 that are not neutral as to gender. These changes do not affect the substance of the
2 Compact.

3 SUBTITLE 7. COMMUNITY SERVICE PROGRAMS.

4 8-701. DEFINITIONS.

5 (A) GENERALLY.

6 IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

7 REVISOR'S NOTE: This subsection is new language added as the standard
8 introduction to a definition section.

9 (B) CRIME OF VIOLENCE.

10 "CRIME OF VIOLENCE" HAS THE MEANING STATED IN ARTICLE 27, § 643B OF THE
11 CODE.

12 REVISOR'S NOTE: This subsection is new language derived without
13 substantive change from former Art. 27, § 726A(c)(1).

14 The definition of "crime of violence" in former Art. 27, § 726A(c)(1) was
15 applicable only "[i]n [that] subsection". This subsection makes the
16 definition of "crime of violence" in former Art. 27, § 726A(c)(1) applicable to
17 this entire subtitle. No substantive change is intended. See § 8-704 of this
18 subtitle for the revision of former Art. 27, § 726A(c)(2).

19 (C) PARTICIPATING AGENCY.

20 "PARTICIPATING AGENCY" MEANS ANY INSTITUTION, ASSOCIATION, OR
21 GOVERNMENTAL UNIT DESCRIBED IN § 8-705(A) OF THIS SUBTITLE THAT PROVIDES
22 WORK PROJECTS FOR A COMMUNITY SERVICE PROGRAM.

23 REVISOR'S NOTE: This subsection is new language added to avoid repetition
24 of the phrase "any institution, association, or governmental unit described
25 in § 8-705(a) of this subtitle that provides work projects for a community
26 service program".

27 8-702. ESTABLISHMENT.

28 A COUNTY MAY ESTABLISH A COMMUNITY SERVICE PROGRAM.

29 REVISOR'S NOTE: This section is new language derived without substantive
30 change from former Art. 27, § 726A(a).

31 Defined term: "County" § 1-101

1 8-703. AUTHORITY OF COURT.

2 EXCEPT AS OTHERWISE PROVIDED, A COURT MAY ORDER A JUVENILE WHO IS
3 CHARGED WITH THE COMMISSION OF A DELINQUENT ACT OR A CRIMINAL
4 DEFENDANT WHO HAS NOT BEEN CONVICTED OF A CRIME OF VIOLENCE TO
5 PERFORM COMMUNITY SERVICE AND ASSIGN THE JUVENILE OR DEFENDANT TO A
6 PARTICULAR WORK PROJECT:

7 (1) INSTEAD OF PAYMENT OF ANY FINES AND COURT COSTS IMPOSED;
8 OR

9 (2) AS A CONDITION OF:

10 (I) PROBATION, WHETHER GRANTED UNDER ARTICLE 27, § 641 OR §
11 641A OF THE CODE OR OTHERWISE;

12 (II) A SUSPENDED SENTENCE;

13 (III) A CASE BEING PLACED ON A STET DOCKET; OR

14 (IV) A JUVENILE BEING SUBJECT TO A DIVERSIONARY PROGRAM.

15 REVISOR'S NOTE: This section is new language derived without substantive
16 change from former Art. 27, § 726A(b).

17 The Correctional Services Article Review Committee notes, for
18 consideration by the General Assembly, that the meaning of the phrase
19 "has not been convicted of a crime of violence" in the introductory language
20 of this section is unclear. The Committee is uncertain as to whether the
21 reference to a conviction for a "crime of violence" applies only to the current
22 conviction or to prior convictions as well. The General Assembly may wish
23 to clarify whether this provision was intended to apply to individuals who
24 have a prior conviction for a crime of violence but who are currently before
25 the court after being convicted of a crime other than a crime of violence.
26 See also § 8-704(3) and accompanying Revisor's Note.

27 Defined term: "Crime of violence" § 8-701

28 8-704. LIMITATIONS ON WORK PROJECTS.

29 A CRIMINAL DEFENDANT OR A JUVENILE MAY BE ASSIGNED TO PERFORM A
30 WORK PROJECT UNDER A COMMUNITY SERVICE PROGRAM ONLY IF:

31 (1) THE JUVENILE OR DEFENDANT CONSENTS TO THE ASSIGNMENT;

32 (2) THE JUVENILE OR DEFENDANT IS NOT COMPENSATED FOR THE
33 WORK PERFORMED; AND

34 (3) IN THE CASE OF A DEFENDANT, THE INDIVIDUAL HAS NOT BEEN
35 CONVICTED OF A CRIME OF VIOLENCE.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 27, § 726A(c)(2).

3 The Correctional Services Article Review Committee notes, for
4 consideration by the General Assembly, that the meaning of the phrase
5 "has not been convicted of a crime of violence" in item (3) of this section is
6 unclear. The Committee is uncertain as to whether the reference to a
7 conviction for a "crime of violence" applies only to the current conviction or
8 to prior convictions as well. The General Assembly may wish to clarify
9 whether this provision was intended to apply to individuals who have a
10 prior conviction for a crime of violence but who are currently being
11 considered for assignment to a work project after being convicted of a
12 crime other than a crime of violence. See also § 8-703 and accompanying
13 Revisor's Note.

14 Defined term: "Crime of violence" § 8-701

15 8-705. PARTICIPATION BY INSTITUTIONS, ASSOCIATIONS, AND AGENCIES.

16 (A) IN GENERAL.

17 A NONPROFIT CHARITABLE INSTITUTION, PUBLIC ASSOCIATION, COMMUNITY
18 SERVICE ASSOCIATION, OR GOVERNMENTAL UNIT MAY PROVIDE WORK PROJECTS
19 FOR A COMMUNITY SERVICE PROGRAM.

20 (B) INFORMATION REQUIRED.

21 (1) A PARTICIPATING AGENCY SHALL PROVIDE, ON A WRITTEN FORM,
22 ANY INFORMATION USEFUL FOR ASSIGNING A JUVENILE OR DEFENDANT TO AN
23 APPROPRIATE WORK PROJECT, INCLUDING:

24 (I) A DESCRIPTION OF THE WORK PROJECT;

25 (II) THE DAYS OF THE WEEK AND THE HOURS OF EACH DAY THAT
26 EACH WORK PROJECT IS TO BE PERFORMED;

27 (III) SPECIAL SKILLS OR PHYSICAL REQUIREMENTS TO PERFORM
28 THE WORK PROJECT; AND

29 (IV) FOR A WORK PROJECT OF LIMITED DURATION, THE DATE WHEN
30 THE AVAILABILITY OF THE PROJECT EXPIRES.

31 (2) A PARTICIPATING AGENCY SHALL SEND THE FORM TO THE CLERKS
32 OF COURT.

33 REVISOR'S NOTE: This section is new language derived without substantive
34 change from former Art. 27, § 726A(d).

35 In subsection (a) of this section, the reference to "[p]rivate" nonprofit
36 charitable institutions is deleted as implicit in the reference to a "nonprofit

1 charitable institution".

2 In subsection (b)(1) of this section, the reference to a "local" participating
3 agency is deleted as unnecessary in light of the definition of "participating
4 agency" in § 8-701(c) of this subtitle.

5 Also in subsection (b)(1) of this section, the reference to "relevant"
6 information is deleted as redundant of the reference to "any information
7 useful for assigning ... [a] work project".

8 Also in subsection (b)(1) of this section, the reference to a "written" form is
9 added to state expressly that which was only implied in the former
10 reference to a "form".

11 The Correctional Services Article Review Committee notes, for
12 consideration by the General Assembly, that there is inconsistent
13 compliance with subsection (b) of this section in the various counties of the
14 State. Some clerks are unaware of the requirement that a participating
15 agency file a form with the clerk's office. Some clerks are aware of the
16 provision but do not enforce it. The General Assembly may wish to repeal
17 this provision.

18 Defined term: "Participating agency" § 8-701

19 8-706. ADMINISTRATION.

20 A COMMUNITY SERVICE PROGRAM:

21 (1) FOR ADULTS, SHALL BE ADMINISTERED EITHER BY THE COUNTY OR,
22 WITHIN THE COUNTY, BY THE DIVISION OF PAROLE AND PROBATION; OR

23 (2) FOR JUVENILES, SHALL BE ADMINISTERED EITHER BY THE COUNTY
24 OR, WITHIN THE COUNTY, BY THE DEPARTMENT OF JUVENILE JUSTICE.

25 REVISOR'S NOTE: This section is new language derived without substantive
26 change from former Art. 27, § 726A(e).

27 In items (1) and (2) of this section, the references to programs that are
28 administered either "by the county or, within the county" are substituted
29 for the former references to programs that are administered either "locally
30 or within their respective jurisdictions" for clarity and conformity with
31 current practice.

32 Defined terms: "County" § 1-101

33 "Division of Parole and Probation" § 1-101

34 8-707. MONITORING.

35 A COUNTY MAY ELECT TO HAVE A COMMUNITY SERVICE PROGRAM MONITORED
36 BY:

- 1 (1) THE DIVISION OF PAROLE AND PROBATION;
2 (2) THE DEPARTMENT OF JUVENILE JUSTICE; OR
3 (3) THE COUNTY.

4 REVISOR'S NOTE: This section is new language derived without substantive
5 change from former Art. 27, § 726A(f).

6 In this section, the word "local" is deleted as implied in the reference to
7 "community service program". Any community service program
8 established under § 8-702 of this subtitle is a local program because it is
9 applicable only in the particular county in which it is established.

10 Defined terms: "County" § 1-101

11 "Division of Parole and Probation" § 1-101

12 8-708. PAYMENTS BY COUNTY.

13 A COUNTY SHALL PAY FOR:

- 14 (1) LOCAL MONITORING OF A COMMUNITY SERVICE PROGRAM; AND
15 (2) SUPERVISING PARTICIPANTS.

16 REVISOR'S NOTE: This section is new language derived without substantive
17 change from former Art. 27, § 726A(g).

18 Defined term: "County" § 1-101

19 8-709. REPORTS.

20 (A) REPORT TO ADMINISTERING AGENCY.

21 A COUNTY SHALL REPORT TO THE ADMINISTERING UNIT AT THE TIMES AND IN
22 THE MANNER THAT THE ADMINISTERING UNIT DETERMINES.

23 (B) OTHER REPORTS.

24 THE ADMINISTRATOR OF EACH COMMUNITY SERVICE PROGRAM SHALL
25 PREPARE SEPARATE REPORTS CONTAINING ANNUAL STATISTICAL DATA ON ALL
26 ADULTS AND JUVENILES IN THE PROGRAM AND SUBMIT:

- 27 (1) THE REPORT ON ADULTS TO THE DIVISION OF PAROLE AND
28 PROBATION;
29 (2) THE REPORT ON JUVENILES TO THE DEPARTMENT OF JUVENILE
30 JUSTICE; AND
31 (3) BOTH REPORTS TO THE ADMINISTRATIVE OFFICE OF THE COURTS.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 27, § 726A(h).

3 In subsection (a) of this section, the reference to the administering "unit" is
4 substituted for the former reference to the administering "agency" for
5 consistency with terminology used throughout this article. See General
6 Revisor's Note to this article.

7 In subsection (b) of this section, the reference to "[t]he administrator of
8 each community service program" is substituted for the former reference to
9 "[l]ocally administered and State administered programs" to state
10 expressly that which was only implied in the former law, i.e., the program
11 administrator is responsible for preparing the reports described in this
12 subsection.

13 Also in subsection (b) of this section, the reference to preparing annual
14 statistical data on "all adults and juveniles in the program" and the
15 references to submitting the report "on adults" to the Division of Parole
16 and Probation and submitting the report "on juveniles" to the Department
17 of Juvenile Justice are added to state expressly that which was only
18 implied in the former law, i.e., only information pertaining to adults should
19 be submitted to the Division of Parole and Probation and only information
20 pertaining to juveniles should be submitted to the Department of Juvenile
21 Justice.

22 Also in subsection (b) of this section, the former phrase "in their respective
23 jurisdictions" is deleted as unnecessary in light of the specific requirement
24 that the reports prepared by the administrator of a community service
25 program relate to that particular program.

26 Defined terms: "County" § 1-101

27 "Division of Parole and Probation" § 1-101

28 8-710. RESPONSIBILITY OF UNIT OR AGENCY; AUTHORITY OF COURT.

29 (A) IN GENERAL.

30 A PARTICIPATING AGENCY THAT REQUESTS THE ASSIGNMENT OF A
31 COMMUNITY SERVICE WORKER:

32 (1) IS RESPONSIBLE FOR SUPERVISING THE WORKER WHO IS ASSIGNED
33 TO THE AGENCY; AND

34 (2) SHALL ACCEPT THE ASSIGNMENT OF THE WORKER ON THE TERMS
35 AND CONDITIONS IMPOSED BY THE COURT.

36 (B) UNSUITABILITY OF COMMUNITY SERVICE WORKER.

37 (1) A PARTICIPATING AGENCY MAY REPORT THE UNSUITABILITY OF A
38 COMMUNITY SERVICE WORKER TO THE COURT.

- 1 (2) IF A WORKER IS REPORTED TO BE UNSUITABLE, THE COURT:
- 2 (I) SHALL REMOVE THE WORKER FROM THE PROJECT; AND
- 3 (II) AFTER CONSIDERING ALL THE FACTS AND CIRCUMSTANCES,
- 4 MAY REASSIGN THE WORKER OR TAKE OTHER ACTION ALLOWED BY LAW.
- 5 (C) RESTITUTION.

6 THIS SUBTITLE DOES NOT LIMIT THE AUTHORITY OF A COURT TO DIRECT A
 7 JUVENILE OR A DEFENDANT, UNDER THE SUPERVISION OF THE DIVISION OF PAROLE
 8 AND PROBATION, THE DEPARTMENT OF JUVENILE JUSTICE, OR ANY OTHER UNIT OR
 9 INDIVIDUAL AS DIRECTED BY THE COURT, TO MAKE RESTITUTION TO THE VICTIM OF
 10 A PARTICULAR CRIME OR TO PERFORM CERTAIN SERVICES FOR THE VICTIM AS AN
 11 ALTERNATIVE MEANS OF RESTITUTION:

- 12 (1) AS A CONDITION OF PROBATION;
- 13 (2) AS A CONDITION OF SUSPENDED SENTENCE; OR
- 14 (3) INSTEAD OF ANY FINES AND COURT COSTS IMPOSED.

15 REVISOR'S NOTE: This section is new language derived without substantive
 16 change from former Art. 27, § 726A(i).

17 In subsections (a) and (b) of this section, the defined term "participating
 18 agency" is substituted for the phrase "[a]ny public or private agency that
 19 requests the assignment of a community service worker" for consistency
 20 with terminology used throughout this subtitle.

21 In subsection (c)(3) of this section, the reference to fines "and" court costs is
 22 substituted for the former reference to fines "or" court costs for consistency
 23 with § 8-703(1) of this subtitle.

24 In subsection (c) of this section, the former phrase "in a criminal case" is
 25 deleted as surplusage in light of the reference to a "defendant".

26 Defined terms: "Division of Parole and Probation" § 1-101

27 "Participating agency" § 8-701

28 8-711. RUBBISH CLEANUP IN PRINCE GEORGE'S COUNTY.

29 (A) SCOPE.

30 THIS SECTION APPLIES ONLY IN PRINCE GEORGE'S COUNTY.

31 (B) REQUEST BY OWNER OF PRIVATE PROPERTY.

32 AN OWNER OF PRIVATE PROPERTY MAY REQUEST THE ASSIGNMENT OF A
 33 COMMUNITY SERVICE WORKER TO CLEAN UP AND DISPOSE OF RUBBISH ON THE
 34 OWNER'S PROPERTY AS A WORK PROJECT UNDER THIS SUBTITLE IF:

1 (1) THE RUBBISH WAS DUMPED ON THE PROPERTY WITHOUT THE
2 KNOWLEDGE AND CONSENT OF THE OWNER; AND

3 (2) THE OWNER PROVIDES A SIGNED RELEASE OF ALL THE OWNER'S
4 PERSONAL AND PROPERTY CLAIMS THAT MAY ARISE FROM THE PERFORMANCE OF
5 THE WORK PROJECT.

6 (C) INSURANCE.

7 PRINCE GEORGE'S COUNTY SHALL INSURE A COMMUNITY SERVICE WORKER
8 ASSIGNED TO A WORK PROJECT UNDER THIS SECTION TO THE SAME EXTENT AS A
9 WORKER ASSIGNED TO A WORK PROJECT PROVIDED BY A PARTICIPATING LOCAL
10 AGENCY UNDER THIS SUBTITLE.

11 (D) NOTICE OF VIOLATION FROM DEPARTMENT OF ENVIRONMENTAL
12 RESOURCES.

13 (1) IF AN OWNER HAS RECEIVED A NOTICE OF VIOLATION FROM THE
14 PRINCE GEORGE'S COUNTY DEPARTMENT OF ENVIRONMENTAL RESOURCES
15 BECAUSE OF RUBBISH DUMPED WITHOUT THE OWNER'S KNOWLEDGE AND
16 CONSENT, AND THE OWNER APPEALS TO THE BOARD OF ADMINISTRATIVE APPEALS
17 FOR THE COUNTY, THE BOARD SHALL ALLOW THE OWNER TO DEFEND AGAINST THE
18 NOTICE BY ASSERTING THE LIABILITY OF A THIRD PARTY, WHOSE IDENTITY MAY BE
19 KNOWN OR UNKNOWN TO THE OWNER.

20 (2) IF THE BOARD DECIDES IN FAVOR OF THE OWNER, THE BOARD
21 SHALL GRANT THE OWNER A REASONABLE AMOUNT OF TIME TO REQUEST THE
22 ASSIGNMENT OF A COMMUNITY SERVICE WORKER UNDER THIS SECTION.

23 REVISOR'S NOTE: This section is new language derived without substantive
24 change from former Art. 27, § 726A(j).

25 In subsection (d)(1) of this section, the reference to the "Prince George's
26 County" Department of Environmental Resources is added to state
27 expressly that which was only implied in the former law.

28 SUBTITLE 8. PROHIBITED ACTS.

29 8-801. DEFINITIONS.

30 (A) IN GENERAL.

31 IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

32 REVISOR'S NOTE: This subsection formerly was the introductory language of
33 Art. 27, § 122A(a).

34 The only changes are in style.

35 (B) ALCOHOLIC BEVERAGE.

1 "ALCOHOLIC BEVERAGE" MEANS BEER, WINE, OR DISTILLED SPIRITS.

2 REVISOR'S NOTE: This subsection formerly was Art. 27, § 122A(a)(1).

3 The only changes are in style.

4 (C) CONTRABAND.

5 "CONTRABAND" MEANS ANY ITEM, MATERIAL, SUBSTANCE, OR OTHER THING
6 OF VALUE THAT:

7 (1) IS NOT AUTHORIZED FOR INMATE POSSESSION BY THE MANAGING
8 OFFICIAL; OR

9 (2) IS BROUGHT INTO THE CORRECTIONAL FACILITY IN A MANNER
10 PROHIBITED BY THE MANAGING OFFICIAL.

11 REVISOR'S NOTE: This subsection is new language derived without
12 substantive change from former Art. 27, § 122A(a)(2).

13 Defined terms: "Correctional facility" § 1-101

14 "Inmate" § 1-101

15 "Managing official" § 1-101

16 (D) CONTROLLED DANGEROUS SUBSTANCE.

17 (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,
18 "CONTROLLED DANGEROUS SUBSTANCE" HAS THE MEANING STATED IN ARTICLE 27,
19 § 277(F) OF THE CODE.

20 (2) "CONTROLLED DANGEROUS SUBSTANCE" DOES NOT INCLUDE A
21 DRUG OR SUBSTANCE THAT IS LEGALLY POSSESSED BY AN INMATE UNDER A
22 WRITTEN PRESCRIPTION ISSUED BY A PHYSICIAN AUTHORIZED TO PRESCRIBE
23 INMATE MEDICATION BY THE MANAGING OFFICIAL.

24 REVISOR'S NOTE: This subsection is new language derived without
25 substantive change from former Art. 27, § 122A(a)(3).

26 In paragraph (1) of this subsection, the former specific reference to a "drug,
27 substance, or precursor" is deleted as unnecessary because these words are
28 included within the definition of a "controlled dangerous substance" in Art.
29 27, § 277(f), as referenced in this subsection.

30 Defined terms: "Correctional facility" § 1-101

31 "Inmate" § 1-101

32 "Managing official" § 1-101

33 (E) WEAPON.

34 "WEAPON" MEANS A GUN, KNIFE, CLUB, EXPLOSIVE, OR OTHER ARTICLE THAT
35 CAN BE USED TO KILL, MAIM, OR INFLICT BODILY INJURY.

1 REVISOR'S NOTE: This subsection formerly was Art. 27, § 122A(a)(6).

2 The only changes are in style.

3 REVISOR'S NOTE TO SECTION: Since former Art. 27, § 122A is being broken
4 into separate sections in this subtitle, this section makes the definitions
5 that were in former Art. 27, § 122A(a) applicable to this entire subtitle,
6 including provisions to which they formerly did not apply. However, the
7 defined terms are not used in these other provisions and no substantive
8 change is intended.

9 As to the definition of "correctional facility" in former Art. 27, § 122 A(a)(4),
10 see § 1-101(d) of this article.

11 8-802. WEAPONS IN CORRECTIONAL FACILITIES.

12 (A) DELIVERY; PROHIBITED.

13 AN INDIVIDUAL MAY NOT DELIVER A WEAPON TO AN INMATE.

14 (B) POSSESSION WITH INTENT TO DELIVER; PROHIBITED.

15 AN INDIVIDUAL MAY NOT POSSESS A WEAPON WITH INTENT TO DELIVER TO AN
16 INMATE.

17 (C) RECEIPT; PROHIBITED.

18 AN INMATE MAY NOT RECEIVE A WEAPON.

19 (D) PENALTY.

20 AN INDIVIDUAL WHO VIOLATES THIS SECTION IS GUILTY OF A FELONY AND ON
21 CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 10 YEARS OR A FINE
22 NOT EXCEEDING \$5,000 OR BOTH.

23 REVISOR'S NOTE: This section is new language derived without substantive
24 change from former Art. 27, § 122A(b)(1), (2), and (4), as they related to
25 weapons.

26 In subsections (a), (b), and (d) of this section, the references to an
27 "individual" are substituted for the former reference to a "person" because
28 only a human being, and not the other entities included in the defined
29 term "person", can deliver, possess, or receive a weapon. See § 1-101 of this
30 article for the definition of "person".

31 In subsection (c) of this section, the reference to "[a]n inmate" is added to
32 state expressly that which was only implied in the former law.

33 The Correctional Services Article Review Committee notes, for
34 consideration by the General Assembly, that the prohibition against receipt
35 of a weapon set forth in subsection (c) of this section does not apply to

1 individuals other than inmates, i.e., aiders and abettors. If the General
2 Assembly intended that subsection (c) apply to aiders and abettors, it
3 should be amended accordingly. See also § 8-803(d) of this subtitle and
4 accompanying Revisor's Note.

5 The Correctional Services Article Review Committee further notes, for
6 consideration by the General Assembly, that, with one exception, this
7 section mirrors the provisions of § 8-803 of this subtitle. Taken together,
8 these two sections prohibit delivery, possession with intent to deliver, and
9 receipt of weapons and contraband to effect an escape. Section 8-803 also
10 prohibits an individual from depositing or concealing contraband in or
11 about a correctional facility or on any land appurtenant to the facility to
12 effect an escape. The General Assembly may wish to amend this section to
13 prohibit an individual from depositing or concealing a weapon in or about
14 a correctional facility or on any land appurtenant to the facility.

15 Defined terms: "Correctional facility" § 1-101

16 "Inmate" § 1-101

17 "Weapon" § 8-801

18 8-803. CONTRABAND IN CORRECTIONAL FACILITIES; TO EFFECT AN ESCAPE.

19 (A) DELIVERY; PROHIBITED.

20 AN INDIVIDUAL MAY NOT DELIVER CONTRABAND TO AN INMATE TO EFFECT AN
21 ESCAPE.

22 (B) POSSESSION WITH INTENT TO DELIVER; PROHIBITED.

23 AN INDIVIDUAL MAY NOT POSSESS CONTRABAND WITH INTENT TO DELIVER TO
24 AN INMATE TO EFFECT AN ESCAPE.

25 (C) DEPOSITING OR CONCEALING; PROHIBITED.

26 AN INDIVIDUAL MAY NOT DEPOSIT OR CONCEAL ANY CONTRABAND IN OR
27 ABOUT A CORRECTIONAL FACILITY OR ON ANY LAND APPURTENANT TO THE
28 FACILITY TO EFFECT AN ESCAPE.

29 (D) RECEIPT; PROHIBITED.

30 AN INMATE MAY NOT RECEIVE CONTRABAND TO EFFECT AN ESCAPE.

31 (E) PENALTY.

32 AN INDIVIDUAL WHO VIOLATES THIS SECTION IS GUILTY OF A FELONY AND ON
33 CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 10 YEARS OR A FINE
34 NOT EXCEEDING \$5,000 OR BOTH.

35 REVISOR'S NOTE: This section is new language derived without substantive
36 change from former Art. 27, § 122A(b), as it related to contraband.

1 In subsections (a), (b), (c), and (e) of this section, the references to an
2 "individual" are substituted for the former reference to a "person" because
3 only a human being, and not the other entities included in the defined
4 term "person", can deliver, possess, deposit, or conceal contraband. See §
5 1-101 of this article for the definition of "person".

6 In subsection (d) of this section, the reference to "[a]n inmate" is added to
7 state expressly that which was only implied in the former law.

8 The Correctional Services Article Review Committee notes, for
9 consideration by the General Assembly, that the prohibition against receipt
10 of contraband set forth in subsection (d) of this section does not apply to
11 individuals other than inmates, i.e., aiders and abettors. If the General
12 Assembly intended that subsection (d) apply to aiders and abettors, it
13 should be amended accordingly. See also § 8-802(c) of this subtitle and
14 accompanying Revisor's Note.

15 Defined terms: "Contraband" § 8-801

16 "Correctional facility" § 1-101

17 "Inmate" § 1-101

18 8-804. CONTRABAND IN CORRECTIONAL FACILITIES.

19 (A) DELIVERY; PROHIBITED.

20 AN INDIVIDUAL MAY NOT DELIVER ANY CONTRABAND NOT SPECIFICALLY
21 DESIGNATED IN §§ 8-802 AND 8-803 OF THIS SUBTITLE TO AN INMATE.

22 (B) POSSESSION WITH INTENT TO DELIVER; PROHIBITED.

23 AN INDIVIDUAL MAY NOT POSSESS ANY CONTRABAND NOT SPECIFICALLY
24 DESIGNATED IN §§ 8-802 AND 8-803 OF THIS SUBTITLE WITH INTENT TO DELIVER TO
25 AN INMATE.

26 (C) PENALTY.

27 AN INDIVIDUAL WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR
28 AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 3 YEARS OR A
29 FINE NOT EXCEEDING \$1,000 OR BOTH.

30 REVISOR'S NOTE: This section is new language derived without substantive
31 change from former Art. 27, § 122A(c), as it related to contraband.

32 Throughout this section, the references to an "individual" are substituted
33 for the former reference to a "person" because only a human being, and not
34 the other entities included in the defined term "person", can deliver or
35 possess contraband. See § 1-101 of this article for the definition of
36 "person".

1 Defined terms: "Contraband" § 8-801

2 "Correctional facility" § 1-101

3 "Inmate" § 1-101

4 8-805. ALCOHOLIC BEVERAGES IN CORRECTIONAL FACILITIES.

5 (A) DELIVERY; PROHIBITED.

6 AN INDIVIDUAL MAY NOT DELIVER AN ALCOHOLIC BEVERAGE TO AN INMATE.

7 (B) POSSESSION WITH INTENT TO DELIVER; PROHIBITED.

8 AN INDIVIDUAL MAY NOT POSSESS AN ALCOHOLIC BEVERAGE WITH INTENT TO
9 DELIVER TO AN INMATE.

10 (C) PENALTY.

11 AN INDIVIDUAL WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR
12 AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$1,000 OR
13 IMPRISONMENT NOT EXCEEDING 3 YEARS OR BOTH.

14 REVISOR'S NOTE: This section is new language derived without substantive
15 change from former Art. 27, § 122A(c), as it related to alcoholic beverages.

16 Throughout this section, the references to an "individual" are substituted
17 for the former reference to a "person" because only a human being, and not
18 the other types of entities included in the defined term "person", can
19 deliver or possess an alcoholic beverage. See § 1-101 of this article for the
20 definition of "person".

21 Defined terms: "Alcoholic beverage" § 8-801

22 "Correctional facility" § 1-101

23 "Inmate" § 1-101

24 8-806. CONTROLLED DANGEROUS SUBSTANCES IN CORRECTIONAL FACILITIES.

25 (A) DELIVERY; PROHIBITED.

26 AN INDIVIDUAL MAY NOT DELIVER A CONTROLLED DANGEROUS SUBSTANCE
27 TO AN INMATE.

28 (B) POSSESSION WITH INTENT TO DELIVER; PROHIBITED.

29 AN INDIVIDUAL MAY NOT POSSESS A CONTROLLED DANGEROUS SUBSTANCE
30 WITH INTENT TO DELIVER TO AN INMATE.

31 (C) PENALTY.

32 AN INDIVIDUAL WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR
33 AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$1,000 OR
34 IMPRISONMENT NOT EXCEEDING 3 YEARS OR BOTH.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 27, § 122A(c), as it related to a controlled
3 dangerous substance.

4 Throughout this section, the references to an "individual" are substituted
5 for the former reference to a "person" because only a human being, and not
6 the other types of entities included in the defined term "person", can
7 deliver or possess contraband. See § 1-101 of this article for the definition
8 of "person".

9 Defined terms: "Controlled dangerous substance" § 8-801

10 "Correctional facility" § 1-101

11 "Inmate" § 1-101

12 8-807. FALSE IMPRISONMENT BY INMATE.

13 (A) PROHIBITED.

14 AN INMATE MAY NOT FALSELY IMPRISON AN INDIVIDUAL WHO:

15 (1) IS EMPLOYED BY A CORRECTIONAL FACILITY;

16 (2) PERFORMS VOLUNTEER WORK FOR A CORRECTIONAL FACILITY;

17 (3) PERFORMS DUTIES IN A CORRECTIONAL FACILITY BY VIRTUE OF
18 FEDERAL, STATE, OR LOCAL GOVERNMENT EMPLOYMENT; OR

19 (4) PERFORMS DUTIES IN A CORRECTIONAL FACILITY BY VIRTUE OF A
20 CONTRACT WITH A LOCAL GOVERNMENT OR THE FEDERAL OR STATE GOVERNMENT.

21 (B) PENALTY.

22 (1) AN INMATE WHO VIOLATES THIS SECTION IS GUILTY OF A FELONY
23 AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 30 YEARS.

24 (2) A SENTENCE IMPOSED UNDER THIS SECTION MAY NOT BE
25 SUSPENDED.

26 REVISOR'S NOTE: This section is new language derived without substantive
27 change from former Art. 27, § 337A.

28 In subsection (a) of this section, the defined term "correctional facility" is
29 substituted for the former reference to a "correctional institution" for
30 consistency with terminology used throughout this article. See General
31 Revisor's Note to this article.

32 Also in subsection (a) of this section, the reference to an "individual" is
33 substituted for the former references to a "person" because only human
34 beings, and not the other types of entities included in the defined term
35 "person", can engage in the types of activities that are listed in that
36 subsection. See § 1-101 of this article for the definition of "person".

1 The introductory language to former Art. 27, § 337A(a) is deleted as
2 unnecessary because the former definition of "correctional employee" is
3 merged into subsection (a) of this section as part of the substantive
4 provision.

5 Defined terms: "Correctional facility" § 1-101

6 "Inmate" § 1-101

7 "Local correctional facility" § 1-101

8 "State correctional facility" § 1-101

9 8-808. SALE OF PRODUCE BY CORRECTIONAL FACILITIES.

10 (A) PROHIBITED.

11 AN AGENT OR EMPLOYEE OF A STATE CORRECTIONAL FACILITY OR ANY OTHER
12 CORRECTIONAL FACILITY THAT RECEIVES STATE AID MAY NOT RAISE OR TAKE PART
13 IN THE RAISING OF PERISHABLE VEGETABLE PRODUCE FOR SALE UNLESS THE SALE
14 IS TO BE MADE TO ANOTHER STATE UNIT, AN INSTITUTION RECEIVING STATE AID,
15 OR A CANNERY.

16 (B) PENALTY.

17 A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND
18 ON CONVICTION IS SUBJECT TO A FINE OF NOT LESS THAN \$50 AND NOT MORE THAN
19 \$100.

20 (C) REMOVAL.

21 AN EMPLOYEE OF A STATE CORRECTIONAL FACILITY WHO VIOLATES THIS
22 SECTION IS SUBJECT TO REMOVAL.

23 REVISOR'S NOTE: This section is new language derived without substantive
24 change from former Art. 27, § 703A.

25 In subsection (a) of this section, the phrase "State correctional facility or
26 any other correctional facility that receives State aid" is substituted for the
27 former reference to "[a]ll State penal institutions and all institutions, of a
28 penal or reformatory nature, whose primary object is reformatory and
29 not educational, receiving State aid" for consistency with terminology used
30 throughout this article. See General Revisor's Note to this article.

31 Also in subsection (a) of this section, the reference to "[a]n agent or
32 employee of a State correctional facility" is substituted for the former
33 vague reference to a person who is "connected with any State penal
34 institution or other institutions" for clarity.

35 Also in subsection (a) of this section, the reference to a State "unit" is
36 substituted for the former reference to State "institutions" for consistency
37 with terminology used throughout this article. See General Revisor's Note
38 to this article.

1 The Correctional Services Article Review Committee notes, for
 2 consideration by the General Assembly, that the meaning of the reference
 3 to a fine of "not less than \$50" in subsection (b) of this section, which is
 4 derived from former Art. 27, § 703A, is unclear in light of Art. 27, § 643,
 5 which allows a court to impose "a lesser penalty of the same character".
 6 The General Assembly may wish to clarify whether subsection (b) was
 7 intended to create a mandatory minimum penalty of \$50. The Committee
 8 was unable to resolve this question with any certainty because the
 9 applicability of Art. 27, § 643 to former Art. 27, § 730A is unclear. In State
 10 v. Fisher, 204 Md. 307, 315 (1953), Robertson v. Warden, 212 Md. 646, 648
 11 (in dicta)(1956), Woodfork v. State, 3 Md. App. 622, 624-625 (1967), and
 12 Dodson v. State, 14 Md. App. 483, 485-486 (1971), the courts held that Art.
 13 27, § 643 is controlling only with regard to statutory penalty provisions
 14 that existed at the time of its adoption in 1906 but that it might also be
 15 given effect as to subsequently enacted laws "by construction". The original
 16 version of former Art. 27, § 703A was enacted in 1929. See Ch. 473, Acts of
 17 1929. Accordingly, under the above cases, Art. 27, § 643 was not applicable
 18 to former Art. 27, § 703A unless it was given effect "by construction".
 19 However, the relevancy of those decisions to this issue is unclear because
 20 Art. 27, § 643 was repealed and reenacted three times after the last of
 21 those cases was decided in 1971. In 1972, § 643 was made applicable to the
 22 newly formed District Court. See Ch. 181, Acts of 1972. In 1982, the
 23 obsolete reference to the "Criminal Court of Baltimore" was deleted from §
 24 643. See Ch. 820, Acts of 1982. In the 1988 Corrective Bill, the reference to
 25 the imposition of a "lesser" penalty was substituted for the former
 26 reference to the imposition of a "less" penalty. See Ch. 6, Acts of 1988. In
 27 sum, if the General Assembly intended that subsection (b) of this section
 28 create a mandatory minimum penalty of \$50, it may wish to amend this
 29 provision to expressly state that "notwithstanding Article 27, § 643 of the
 30 Code, it is mandatory on the court to impose a penalty of no less than \$50"
 31 and that "the mandatory minimum penalty of \$50 may not be suspended".
 32 See also § 8-808 of this article and accompanying Revisor's Note.

33 Defined terms: "Correctional facility" § 1-101

34 "Person" § 1-101

35 "State correctional facility" § 1-101

36 TITLE 9. STATE AND LOCAL CORRECTIONAL SYSTEM -- INMATES.

37 SUBTITLE 1. SENTENCES -- GENERALLY.

38 9-101. DEFINITIONS.

39 (A) IN GENERAL.

40 IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

41 REVISOR'S NOTE: This subsection is new language added as the standard
 42 introduction to a definition section.

1 (B) COMMISSIONER.

2 "COMMISSIONER" MEANS THE COMMISSIONER OF CORRECTION.

3 REVISOR'S NOTE: This subsection is new language added as a convenient
4 reference to the Commissioner of Correction.

5 Defined term: "Commissioner of Correction" § 1-101

6 (C) DIVISION.

7 "DIVISION" MEANS THE DIVISION OF CORRECTION.

8 REVISOR'S NOTE: This subsection is new language added as a convenient
9 reference to the Division of Correction.

10 Defined term: "Division of Correction" § 1-101

11 9-102. SCOPE.

12 THIS SUBTITLE APPLIES TO ANY JUDGE OF THE CIRCUIT COURT FOR A COUNTY
13 OR OF THE DISTRICT COURT.

14 REVISOR'S NOTE: This section is new language derived without substantive
15 change from former Art. 27, § 690(a).

16 The former reference to judges who "exercis[e] criminal jurisdiction" is
17 deleted as unnecessary in light of the specific provisions in this subtitle
18 that include the word "judge", which indicate that they apply only to
19 judges who exercise criminal jurisdiction.

20 Defined term: "County" § 1-101

21 9-103. SENTENCING TO THE JURISDICTION OF THE DIVISION.

22 (A) IN GENERAL.

23 (1) NOTWITHSTANDING ANY OTHER LAW, A JUDGE WHO SENTENCES AN
24 INDIVIDUAL TO IMPRISONMENT FOR AN OFFENSE FOR WHICH A LAW REQUIRES THE
25 IMPRISONMENT BE SERVED AT A SPECIFIC STATE CORRECTIONAL FACILITY SHALL
26 SENTENCE THE INDIVIDUAL TO THE JURISDICTION OF THE DIVISION.

27 (2) THE JUDGE SHALL COMMIT THE INDIVIDUAL TO THE CUSTODY OF
28 THE COMMISSIONER AND CAUSE THE INDIVIDUAL TO BE DELIVERED TO THE
29 COMMISSIONER FOR IMPRISONMENT.

30 (3) IF A LAW REFERS TO THE SENTENCING OF AN INMATE TO OR
31 CONFINEMENT OF AN INMATE IN A SPECIFIC CORRECTIONAL FACILITY IN THE
32 DIVISION, THE REFERENCE SHALL BE CONSTRUED TO MEAN SENTENCING OF AN
33 INMATE TO THE JURISDICTION OF OR CONFINEMENT OF AN INMATE IN THE
34 DIVISION RATHER THAN THE SPECIFIC CORRECTIONAL FACILITY.

1 (B) CORRECTIONAL FACILITIES AND STATE POLICE BARRACKS.

2 EACH INDIVIDUAL SENTENCED TO THE JURISDICTION OF THE DIVISION AND
3 EACH INDIVIDUAL STILL IN CONFINEMENT UNDER A SENTENCE IMPOSED BEFORE
4 JUNE 1, 1967, SHALL BE HELD BY, CONFINED IN, ASSIGNED TO, OR TRANSFERRED TO:

5 (1) A CORRECTIONAL FACILITY IN THE DIVISION, AS THE DIVISION
6 ORDERS; OR

7 (2) IF CONVENIENT AND PRACTICAL, A BARRACKS OF THE DEPARTMENT
8 OF STATE POLICE.

9 REVISOR'S NOTE: This section is new language derived without substantive
10 change from former Art. 27, § 690(b) and (e).

11 In subsections (a) and (b) of this section, the references to an "individual"
12 are substituted for the former references to "person" and "persons" because
13 only human beings, and not the other entities included in the defined term
14 "person", can be imprisoned in a State correctional facility. See § 1-101 of
15 this article for the definition of "person".

16 In subsection (a)(1) of this section, the phrase "[n]otwithstanding any other
17 law" is substituted for the former phrase "[n]otwithstanding any of the
18 provisions of this article or any other law to the contrary" for brevity.

19 In subsection (a)(2) of this section, the references to the "judge" committing
20 an individual to the custody of the Commissioner and "caus[ing] the
21 individual to be" delivered to the Commissioner for imprisonment are
22 added to state expressly that which was only implied in the former law.

23 In subsection (a)(3) of this section, the reference to a "law" is substituted
24 for the former reference to "this article or any other law" for brevity.

25 In the introductory language of subsection (b) of this section, the former
26 reference to each individual still in confinement under a sentence imposed
27 before June 1, 1967 "to any one of the institutions and facilities under the
28 jurisdiction of the Division" is deleted as implicit in the reference to each
29 individual still in confinement "under a sentence imposed before June 1,
30 1967".

31 Also in the introductory language of subsection (b) of this section, the
32 former phrase "notwithstanding such sentence" is deleted as implicit.

33 Also in the introductory language of subsection (b) of this section, the
34 reference to an individual held "by" a correctional facility or barracks is
35 added to state expressly that which was only implied in the former
36 reference to "held".

37 In subsection (b)(2) of this section, the independent reference to "a
38 barracks of the Department of State Police" is substituted for the former

1 reference to institutions and facilities "under the jurisdiction of the
2 Division ... including Department of State Police barracks" to reflect that
3 the Department of State Police is no longer under the jurisdiction of the
4 Department of Public Safety and Correctional Services.

5 In subsection (b)(1) of this section, the former phrase "from time to time" is
6 deleted as implicit in the reference to "as the Division orders".

7 Defined terms: "Commissioner" § 9-101

8 "Correctional facility" § 1-101

9 "Division" § 9-101

10 "Inmate" § 1-101

11 "State correctional facility" § 1-101

12 9-104. LENGTH OF SENTENCES TO THE JURISDICTION OF THE DIVISION.

13 (A) SCOPE OF SECTION.

14 THIS SECTION DOES NOT APPLY TO AN INDIVIDUAL SENTENCED IN BALTIMORE
15 CITY.

16 (B) MINIMUM SENTENCE; EXCEPTION.

17 NOTWITHSTANDING ANY OTHER LAW, A JUDGE MAY NOT SENTENCE AN
18 INDIVIDUAL TO THE JURISDICTION OF THE DIVISION FOR 12 MONTHS OR LESS
19 UNLESS:

20 (1) THE SENTENCE IS FOR AN OFFENSE COMMITTED BY AN INMATE IN A
21 CORRECTIONAL FACILITY UNDER THE JURISDICTION OF THE DIVISION; AND

22 (2) THE INMATE IS STILL UNDER THE JURISDICTION OF THE DIVISION.

23 REVISOR'S NOTE: This section is new language derived without substantive
24 change from former Art. 27, § 690(c).

25 In subsection (a) of this section, the reference to an "individual" is
26 substituted for the former reference to a "person" because only a human
27 being, and not the other entities included in the defined term "person", can
28 be sentenced to imprisonment. See § 1-101 of this article for the definition
29 of "person".

30 In the introductory language of subsection (b) of this section, the phrase
31 "[n]otwithstanding any other law" is substituted for the former phrase
32 "[n]otwithstanding any provision of this article or any other law to the
33 contrary" for brevity.

34 In subsection (b)(1) of this section, the former references to the phase-in
35 periods are deleted as obsolete.

1 Defined terms: "Correctional facility" § 1-101

2 "Division" § 9-101

3 "Inmate" § 1-101

4 9-105. SENTENCING TO LOCAL CORRECTIONAL FACILITIES.

5 NOTWITHSTANDING ANY OTHER LAW, A JUDGE MAY SENTENCE AN INDIVIDUAL
6 TO A LOCAL CORRECTIONAL FACILITY IF:

7 (1) THE SENTENCE TO BE THEN EXECUTED IS FOR A PERIOD OF NOT
8 MORE THAN 18 MONTHS; AND

9 (2) THE JUDGE IMPOSING THE SENTENCE IS IN A JURISDICTION THAT IS
10 A PARTY TO THE OPERATION AND MAINTENANCE OF THE LOCAL CORRECTIONAL
11 FACILITY TO WHICH THE INDIVIDUAL IS SENTENCED.

12 REVISOR'S NOTE: This section is new language derived without substantive
13 change from former Art. 27, § 705(g).

14 In the introductory language of this section, the reference to the
15 applicability of this section "[n]otwithstanding any other law" is
16 substituted for the former reference to "[n]otwithstanding any other
17 provisions of the Annotated Code of Maryland" for consistency with §§
18 9-103, 9-104, and 9-106 of this subtitle.

19 Also in the introductory language of this section, the term "individual" is
20 substituted for the former term "convicted offender" for consistency with
21 Art. 27, § 641 of the Code, which, in certain counties, authorizes a court to
22 sentence an individual to confinement as a condition of probation before
23 judgment.

24 In item (2) of this section, the reference to an "individual" is substituted for
25 the former reference to a "person" because only human beings, and not the
26 other entities included in the defined term "person", can be sentenced to a
27 local correctional facility. See § 1-101 of this article for the definition of
28 "person".

29 Defined term: "Local correctional facility" § 1-101

30 9-106. SENTENCING AND COMMITMENT -- BALTIMORE CITY.

31 (A) SCOPE.

32 THIS SECTION APPLIES ONLY IN BALTIMORE CITY.

33 (B) SERVICE OF SENTENCE.

34 NOTWITHSTANDING ANY OTHER LAW, A JUDGE WHO IMPOSES A SENTENCE OF
35 IMPRISONMENT ON AN INDIVIDUAL SHALL COMMIT THE INDIVIDUAL TO THE
36 CUSTODY OF THE COMMISSIONER OF CORRECTION.

1 (C) OTHER CONFINEMENT.

2 A JUDGE WHO COMMITS AN INDIVIDUAL TO CUSTODY FOR ANY PURPOSE
3 OTHER THAN SERVICE OF A SENTENCE SHALL COMMIT THE INDIVIDUAL TO THE
4 CUSTODY OF THE COMMISSIONER OF PRETRIAL DETENTION AND SERVICES.

5 REVISOR'S NOTE: This section is new language derived without substantive
6 change from former Art. 41, § 4-1410(c) and (d).

7 In subsections (b) and (c) of this section, the references to an "individual"
8 are substituted for the former references to a "person" because only human
9 beings, and not the other entities included in the defined term "person",
10 can be sentenced or committed to the custody of the Commissioner. See §
11 1-101 of this article for the definition of "person".

12 In subsection (b) of this section, the reference to the applicability of this
13 section "[n]otwithstanding any other law" is substituted for the former
14 reference to "[n]otwithstanding any provision of the Code to the contrary"
15 for consistency with §§ 9-103 through 9-105 of this subtitle.

16 Also in subsection (b) of this section, the reference to a judge who "imposes
17 a sentence of imprisonment on an individual" is substituted for the former
18 reference to a judge who "commits any person to custody for service of any
19 sentence" for clarity.

20 In subsection (c) of this section, the reference to the Commissioner "of
21 Pretrial Detention and Services" is added to state expressly that which was
22 only implied in the former law.

23 Defined term: "Commissioner of Correction" § 1-101

24 GENERAL REVISOR'S NOTE TO SUBTITLE:

25 Former Art. 41, § 4-1410(a) and (b) are transferred to the Session Laws.

26 SUBTITLE 2. SENTENCES -- CONSECUTIVE AND CONCURRENT.

27 9-201. CONSECUTIVE SENTENCES -- INMATES CONVICTED OF SEXUAL OFFENSES.

28 (A) DEFINITIONS.

29 (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
30 INDICATED.

31 (2) "SEXUAL OFFENSE" MEANS:

32 (I) A VIOLATION OF ARTICLE 27, § 464, § 464A, § 464B, § 464C, OR §
33 464F OF THE CODE; OR

1 (II) AN ATTEMPT TO VIOLATE ARTICLE 27, § 464, § 464A, § 464B, OR §
2 464C OF THE CODE AS A PRINCIPAL OR AN AIDER OR ABETTOR.

3 (3) "STATE CORRECTIONAL FACILITY" DOES NOT INCLUDE:

4 (I) THE PATUXENT INSTITUTION; OR

5 (II) THE BALTIMORE CITY DETENTION CENTER.

6 (B) SEXUAL OFFENSE COMMITTED WHILE SERVING A SENTENCE.

7 IF AN INMATE IS CONVICTED OF AND SENTENCED TO A TERM OF
8 IMPRISONMENT FOR A SEXUAL OFFENSE THAT WAS COMMITTED WHILE THE INMATE
9 WAS SERVING A SENTENCE IN A STATE OR LOCAL CORRECTIONAL FACILITY, THE
10 SENTENCE FOR THE SEXUAL OFFENSE SHALL RUN CONSECUTIVE TO THE SENTENCE
11 THAT THE INMATE WAS SERVING AT THE TIME OF THE SEXUAL OFFENSE.

12 (C) SEXUAL OFFENSE COMMITTED WHILE AWAITING BAIL HEARING,
13 ARRAIGNMENT, TRIAL, OR SENTENCING.

14 (1) IF AN INMATE IS CONVICTED OF AND SENTENCED TO A TERM OF
15 IMPRISONMENT FOR A SEXUAL OFFENSE THAT WAS COMMITTED WHILE THE INMATE
16 WAS BEING HELD FOR A BAIL HEARING, ARRAIGNMENT, TRIAL, OR SENTENCING ON
17 ANOTHER CHARGE IN A STATE OR LOCAL CORRECTIONAL FACILITY AND, BEFORE
18 THE IMPOSITION OF THE SENTENCE FOR THE SEXUAL OFFENSE, THE INMATE WAS
19 SENTENCED TO A TERM OF IMPRISONMENT FOR THE CHARGE FOR WHICH THE
20 INMATE WAS BEING HELD AT THE TIME OF THE SEXUAL OFFENSE, THE SENTENCE
21 IMPOSED FOR THE SEXUAL OFFENSE SHALL RUN CONSECUTIVE TO THE SENTENCE
22 IMPOSED FOR THE CHARGE FOR WHICH THE INMATE WAS BEING HELD AT THE TIME
23 OF THE SEXUAL OFFENSE.

24 (2) IF AN INMATE IS CONVICTED OF AND SENTENCED TO A TERM OF
25 IMPRISONMENT FOR A SEXUAL OFFENSE THAT WAS COMMITTED WHILE THE INMATE
26 WAS BEING HELD FOR A BAIL HEARING, ARRAIGNMENT, TRIAL, OR SENTENCING ON
27 ANOTHER CHARGE IN A STATE OR LOCAL CORRECTIONAL FACILITY AND, AT THE
28 TIME THAT THE SENTENCE FOR THE SEXUAL OFFENSE IS IMPOSED, THE INMATE
29 HAS NOT BEEN SENTENCED ON THE OTHER CHARGE, ANY SENTENCE OF
30 IMPRISONMENT EVENTUALLY IMPOSED FOR THE OTHER CHARGE SHALL RUN
31 CONSECUTIVE TO THE SENTENCE IMPOSED FOR THE SEXUAL OFFENSE.

32 REVISOR'S NOTE: This section is new language derived without substantive
33 change from former Art. 27, § 692A.

34 Subsection (a)(1) of this section is new language added as the standard
35 introductory language to a definition section.

36 Subsection (a)(2) of this section is restated as a definition to avoid
37 repetition of the phrase "a violation of Article 27, § 464, § 464A, § 464B, §
38 464C, or § 464F of the Code or an attempt to violate Article 27, § 464, §
39 464A, § 464B, or § 464C of the Code as a principal or an aider or abettor".

1 The Correctional Services Article Review Committee notes, for
2 consideration by the General Assembly, that the term "sexual offense", as
3 defined in subsection (a)(2) of this section, does not include first degree
4 rape (Art. 27, § 462) or second degree rape (Art. 27, § 463). However, it does
5 include first degree sexual offense (Art. 27, § 464), second degree sexual
6 offense (Art. 27, § 464A), third degree sexual offense (Art. 27, § 464B),
7 fourth degree sexual offense (Art. 27, § 464C), attempt to commit rape in
8 the first or second degree or a sexual offense in the first or second degree
9 (Art. 27, § 464F), and attempt to violate any of the provisions of Art. 27, §§
10 464 through 464C. The General Assembly may wish to amend the
11 definition of "sexual offense" in subsection (a)(2) of this section to include
12 first and second degree rape.

13 Subsection (a)(3) of this section is a new definition added to reflect that
14 this section does not apply to the Patuxent Institution or the Baltimore
15 City Detention Center because these facilities are not "administered by the
16 Division of Correction" as specified by former Art. 27, § 692A(a).

17 The Correctional Services Article Review Committee notes, for
18 consideration by the General Assembly, that this section should logically
19 apply to inmates of the Patuxent Institution and the Baltimore City
20 Detention Center as well as inmates of State correctional facilities that are
21 operated by the Division of Correction. The General Assembly may wish to
22 amend this section to make it applicable to the Patuxent Institution and
23 the Baltimore City Detention Center.

24 In subsections (b) and (c) of this section, the references to sentencing an
25 inmate to a "term of imprisonment" are added to state expressly that
26 which was only implied in the former law.

27 In subsection (b) of this section, the reference to an inmate who is
28 convicted of a sexual offense "that was committed while the inmate was
29 serving a sentence" is new language added to state expressly that which
30 was only implied in the former law.

31 The Correctional Services Article Review Committee notes, for
32 consideration by the General Assembly, that the reference in subsection (b)
33 of this section to "the sentence that the inmate was serving at the time of
34 the sexual offense" may not have the meaning that was intended by the
35 General Assembly. For example, if an inmate is serving a 5-year sentence
36 and also has a 10-year sentence that runs consecutive to the 5-year
37 sentence, subsection (b) of this section requires that the sentence that is
38 imposed for the new sexual offense be served consecutive to the 5-year
39 sentence rather than the 10-year sentence. See Robinson v. Lee, 317 Md.
40 371 (1989) (holding that a sentence that is to be served "consecutive with
41 [the] sentence now serving" is to be served consecutive to the sentence then
42 being served rather than the aggregate of all preexisting unserved
43 sentences). The General Assembly may wish to amend this provision to
44 require that the sentence for the new sexual offense be served consecutive:

1 (1) in the case of an inmate who is serving a single sentence, to that
2 sentence; and (2) in the case of an inmate who is serving multiple
3 sentences, to the last sentence to expire.

4 Subsection (c) of this section is revised to state expressly that which was
5 only implied in the former law and to reflect the holding of DiPietrantonio
6 v. State, 61 Md. App. 528, 532 (1985), cert. denied, 303 Md. 295 (1985)
7 (holding that a judge may impose a sentence consecutive "to whatever
8 other unsuspended sentence of confinement then exists"). Subsection (c)(1)
9 addresses the situation in which an inmate is convicted of and sentenced to
10 a term of imprisonment for a sexual offense after the inmate has been
11 sentenced for the charge for which the inmate was being held at the time of
12 the sexual offense. Subsection (c)(2) addresses the situation in which an
13 inmate is convicted of and sentenced to a term of imprisonment for a
14 sexual offense before the inmate has been sentenced for the charge for
15 which the inmate was being held at the time of the sexual offense.

16 Defined terms: "Inmate" § 1-101

17 "Local correctional facility" § 1-101

18 "State correctional facility" § 1-101

19 9-202. CONSECUTIVE AND CONCURRENT SENTENCES -- MULTIPLE JURISDICTIONS.

20 (A) DEFINITIONS.

21 (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
22 INDICATED.

23 (2) "DIVISION CUSTODY" MEANS CONFINEMENT RESULTING FROM A
24 SENTENCE TO THE JURISDICTION OF THE DIVISION OF CORRECTION.

25 (3) (I) "NON-DIVISION CUSTODY" MEANS ANY POST-SENTENCING
26 CRIMINAL CONFINEMENT OTHER THAN DIVISION CUSTODY.

27 (II) "NON-DIVISION CUSTODY" INCLUDES CONFINEMENT
28 RESULTING FROM A SENTENCE TO:

29 1. A LOCAL CORRECTIONAL FACILITY; OR

30 2. A CORRECTIONAL FACILITY IN A FOREIGN JURISDICTION.

31 (B) COMMENCEMENT OF CONSECUTIVE SENTENCES.

32 (1) A SENTENCE TO A TERM OF DIVISION CUSTODY THAT IS IMPOSED
33 CONSECUTIVE TO A TERM OF NON-DIVISION CUSTODY SHALL BEGIN WHEN THE
34 INDIVIDUAL IS RELEASED FROM NON-DIVISION CUSTODY DUE TO THE EXPIRATION
35 OF A SENTENCE, PAROLE, OR THE APPLICATION OF DIMINUTION CREDITS.

36 (2) A SENTENCE TO A TERM OF NONDIVISION CUSTODY THAT IS
37 IMPOSED CONSECUTIVE TO A TERM OF DIVISION CUSTODY SHALL BEGIN WHEN THE

1 INDIVIDUAL IS RELEASED FROM DIVISION CUSTODY DUE TO THE EXPIRATION OF A
2 SENTENCE, PAROLE, OR THE APPLICATION OF DIMINUTION CREDITS.

3 (C) SENTENCE CONSECUTIVE TO PAROLE.

4 A SENTENCE IMPOSED CONSECUTIVE TO A TERM OF CONFINEMENT FOR
5 WHICH THE DEFENDANT IS ON PAROLE SHALL BEGIN:

6 (1) IF, AT THE TIME OF SENTENCING, PAROLE IS REVOKED, ON
7 EXPIRATION OF THE ORIGINAL TERM OF CONFINEMENT; OR

8 (2) IF PAROLE IS NOT REVOKED, ON THE DATE THAT THE CONSECUTIVE
9 SENTENCE WAS IMPOSED.

10 (D) CONCURRENT OR PARTIALLY CONCURRENT SENTENCES.

11 AN INMATE UNDER A SENTENCE TO A TERM OF DIVISION CUSTODY THAT IS
12 CONCURRENT OR PARTIALLY CONCURRENT TO A TERM OF NON-DIVISION CUSTODY
13 SHALL BE SUBJECT TO DIVISION CUSTODY IMMEDIATELY ON RELEASE FROM
14 NON-DIVISION CUSTODY DUE TO THE EXPIRATION OF A SENTENCE, PAROLE, OR THE
15 APPLICATION OF DIMINUTION CREDITS.

16 REVISOR'S NOTE: This section is new language derived without substantive
17 change from former Art. 27, § 690C.

18 In subsection (a)(2) of this section, the reference to the "jurisdiction of the
19 Division of Correction" is substituted for the former reference to the
20 "custody of the Commissioner of Correction" for consistency with § 9-103 of
21 this title, which requires a judge to sentence to "the jurisdiction of the
22 Division of Correction".

23 In the introductory language of subsection (a)(3)(ii) of this section, the
24 former reference to confinement resulting from a sentence to the "custody"
25 of a local correctional facility is deleted for consistency with subsection
26 (a)(2) of this section.

27 In subsection (a)(3)(ii)1 of this section, the former reference to confinement
28 resulting from a sentence to "a sheriff" is deleted as implied in the
29 reference to confinement resulting from a sentence to "a local correctional
30 facility", which covers those situations in which an individual is sentenced
31 to a local correctional facility that is managed by a sheriff.

32 In subsection (a)(3)(ii)2 of this section, the reference to a "correctional
33 facility" in a foreign jurisdiction is substituted for the former reference to
34 the "custodian" of a foreign jurisdiction for structural consistency with
35 subsection (a)(3)(ii)1 of this section, which refers to sentencing to a "local
36 correctional facility". Although the meaning of the term "correctional
37 facility" may be narrower in some circumstances than the term
38 "custodian", any situation involving confinement in a foreign jurisdiction
39 that is not expressly covered by subsection (a)(3)(ii)2 of this section is

1 covered by the broad definition in subsection (a)(3)(i) of this section.

2 In subsection (b)(1) of this section, the reference to "Division custody" is
3 substituted for the former reference to "custody of the Commissioner of
4 Correction" in light of the definition of "Division custody" in subsection
5 (a)(2) of this section and for consistency with subsection (b)(2) of this
6 section.

7 Also in subsection (b)(1) of this section, the reference to a sentence to "a
8 term of" Division custody is added for consistency within this paragraph,
9 which includes a reference to a "term of" Non-Division custody.
10 Correspondingly, in subsection (b)(2) of this section, the reference to a
11 sentence to a "term of" Non-Division custody is substituted for the former
12 reference to a sentence "to be served in" Non-Division custody, for
13 consistency within this paragraph, which includes a reference to "term of"
14 Division custody.

15 In subsections (b)(1) and (2) and (d) of this section, the former references to
16 an inmate's release "whether" and "regardless of whether the release is"
17 due to expiration of a sentence, parole, or the application of diminution
18 credits are deleted as surplusage.

19 In subsection (c) of this section, the references to a term of "confinement"
20 are added to state expressly that which was only implied in the former
21 references to a "term" and for consistency throughout this article. See
22 General Revisor's Note to this article.

23 Defined terms: "Correctional facility" § 1-101

24 "Division of Correction" § 1-101

25 "Inmate" § 1-101

26 "Local correctional facility" § 1-101

27 SUBTITLE 3. TRANSFERS.

28 9-301. TRANSFER OF DEFENDANT WHEN CASE IS REMOVED TO ANOTHER COUNTY.

29 IF A CRIMINAL CASE IS REMOVED FROM ONE COUNTY TO ANOTHER AND THE
30 DEFENDANT IS DETAINED IN A CORRECTIONAL FACILITY, THE DEFENDANT MAY NOT
31 BE TRANSFERRED TO THE COUNTY TO WHICH THE CASE WAS REMOVED UNTIL THE
32 PRESENCE OF THE DEFENDANT IS REQUIRED IN THE COURT TO WHICH THE CASE
33 WAS REMOVED.

34 REVISOR'S NOTE: This section is new language derived without substantive
35 change from former Art. 27, § 619.

36 The reference to the time when the "presence of the defendant is required
37 in" the court to which the case was removed is substituted for the former
38 archaic reference to the "first day of the session of" the court to which the
39 case was removed to state expressly that which was only implied in the
40 former law.

1 Defined terms: "Correctional facility" § 1-101

2 "County" § 1-101

3 9-302. CASES THAT HAVE BEEN REMOVED TO ANOTHER COUNTY.

4 (A) SENTENCE.

5 IF AN INDIVIDUAL WHOSE TRIAL HAS BEEN REMOVED IS CONVICTED OF A
6 CRIME PUNISHABLE BY IMPRISONMENT IN A LOCAL CORRECTIONAL FACILITY, ANY
7 SENTENCE OF IMPRISONMENT IMPOSED BY A COURT SHALL BE TO A LOCAL
8 CORRECTIONAL FACILITY OF THE COUNTY FROM WHICH THE CASE WAS REMOVED.

9 (B) TRANSFER OF INDIVIDUALS.

10 THE SHERIFF OF THE COUNTY IN WHICH THE CONVICTION OCCURRED SHALL
11 PLACE THE INDIVIDUAL WHO WAS CONVICTED AND A CERTIFIED COPY OF THE
12 DOCKET ENTRIES IN THE CASE IN THE CUSTODY OF THE SHERIFF OF THE COUNTY IN
13 WHICH THE CHARGING DOCUMENT WAS FILED.

14 REVISOR'S NOTE: This section is new language derived without substantive
15 change from former Art. 27, § 638.

16 In subsection (a) of this section, the reference to an "individual" is
17 substituted for the former reference to a "person" for accuracy because only
18 human beings, and not the other entities included in the definition of the
19 term "person", can commit crimes that are punishable by imprisonment.
20 See § 1-101 of this article for the definition of "person".

21 Also in subsection (a) of this section, the reference to a "crime" is
22 substituted for the former reference to an "offense" for consistency
23 throughout this article. See General Revisor's Note to this article.

24 Also in subsection (a) of this section, the former reference to a crime
25 punishable by a "fine" is deleted for clarity because this subsection
26 concerns only those crimes that are punishable by imprisonment.
27 Correspondingly, the former parenthetical phrase "(if the sentence be
28 imprisonment)" is deleted as surplusage.

29 Also in subsection (a) of this section, the reference to a term of
30 "imprisonment" is substituted for the former reference to a term of
31 "confinement" for consistency throughout this article. See General
32 Revisor's Note to this article.

33 In subsection (b) of this section, the reference to the county in which the
34 "charging document was filed" is substituted for the former reference to
35 the county in which the "indictment was found" for clarity. Today, charges
36 may be filed against an individual in an information, a statement of
37 charges, a citation, or an indictment. See Maryland Rule 4-201.

38 Also in subsection (b) of this section, the former reference to a sheriff of the

1 "city" is deleted for accuracy because cities in this State, other than
2 Baltimore City, do not have sheriffs and Baltimore City is included in the
3 defined term "county". See § 1-101 of this article for the definition of
4 "county".

5 Defined terms: "County" § 1-101

6 "Local correctional facility" § 1-101

7 9-303. TRANSFER OF INMATES FROM LOCAL CORRECTIONAL FACILITIES TO THE
8 DIVISION OF CORRECTION.

9 THE COMMISSIONER OF CORRECTION MAY ACCEPT THE TRANSFER OF AN
10 INMATE FROM A LOCAL CORRECTIONAL FACILITY IF:

11 (1) THE INMATE REQUIRES SPECIAL BEHAVIORAL OR MEDICAL
12 TREATMENT OR MAXIMUM SECURITY DETENTION;

13 (2) THE LOCAL CORRECTIONAL FACILITY IS NOT EQUIPPED TO
14 PROPERLY PROVIDE THE NECESSARY TREATMENT OR DETENTION; AND

15 (3) WHEN REQUIRED BY ANY OTHER LAW, THE COMMITTING COURT
16 APPROVES THE TRANSFER.

17 REVISOR'S NOTE: This section is new language derived without substantive
18 change from former Art. 27, § 690(g).

19 In the introductory language to this section, the reference to "pretrial
20 defendants" is deleted as unnecessary in light of the defined term
21 "inmate". See § 1-101 of this article for the definition of "inmate".

22 In item (3) of this section, the former prohibition against "[a] transfer
23 [taking place] under this subsection ... without" the specified approval is
24 deleted as unnecessary in light of the introductory language of this section,
25 which provides that the Commissioner of Correction may accept the
26 transfer of an inmate only if all of the conditions listed in this section are
27 met.

28 Defined terms: "Commissioner of Correction" § 1-101

29 "Inmate" § 1-101

30 "Local correctional facility" § 1-101

31 9-304. TRANSFER OF MINIMUM SECURITY INMATES TO LOCAL CORRECTIONAL
32 FACILITIES.

33 BY MUTUAL AGREEMENT WITH A COUNTY OR COUNTIES, THE COMMISSIONER
34 OF CORRECTION MAY TRANSFER A MINIMUM SECURITY INMATE TO A LOCAL
35 CORRECTIONAL FACILITY OPERATED BY THE COUNTY OR COUNTIES FOR
36 PARTICIPATION IN COMMUNITY-ORIENTED CORRECTIONAL PROGRAMS.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 27, § 690(f).

3 The reference to a mutual agreement with a "county" or counties is added
4 for consistency with § 11-102 of this article, which authorizes the
5 governing body of one or more counties to establish and maintain a local
6 correctional facility.

7 The Correctional Services Article Review Committee notes, for
8 consideration by the General Assembly, that this section is applicable only
9 to inmates in "minimum security" status. There is no authority under this
10 section to transfer an inmate who is in "prerelease" status to a local
11 correctional facility for participation in community-oriented correctional
12 programs. Since "prerelease" is a lower security status than "minimum
13 security", the General Assembly may wish to make this section applicable
14 to both "minimum security" and "prerelease" inmates.

15 Defined terms: "Commissioner of Correction" § 1-101

16 "County" § 1-101

17 "Inmate" § 1-101

18 "Local correctional facility" § 1-101

19 9-305. TRANSFER OF MAXIMUM OR MEDIUM SECURITY INMATES TO MINIMUM
20 SECURITY CORRECTIONAL FACILITY.

21 (A) SCOPE OF SECTION.

22 THIS SECTION DOES NOT APPLY TO THE TRANSFER OF AN INMATE THAT IS:

23 (1) IN ACCORDANCE WITH A COURT ORDER; AND

24 (2) IN CONNECTION WITH A PENDING JUDICIAL PROCEEDING.

25 (B) IN GENERAL.

26 NOTWITHSTANDING ANY OTHER LAW, AN INMATE OF A MAXIMUM OR MEDIUM
27 SECURITY CORRECTIONAL FACILITY IN THE DIVISION OF CORRECTION MAY NOT BE
28 TRANSFERRED TO A MINIMUM SECURITY CORRECTIONAL FACILITY IN THE DIVISION
29 OF CORRECTION OR A LOCAL CORRECTIONAL FACILITY UNLESS THE CASE
30 MANAGEMENT UNIT OF THE DIVISION OF CORRECTION PARTICIPATES IN,
31 EVALUATES, REVIEWS, AND PROVIDES FINAL APPROVAL FOR THE TRANSFER.

32 (C) REGULATIONS.

33 THE COMMISSIONER OF CORRECTION SHALL ADOPT REGULATIONS NECESSARY
34 TO CARRY OUT THIS SECTION.

35 REVISOR'S NOTE: This section is new language derived without substantive
36 change from former Art. 27, § 690A.

1 In subsection (b) of this section, the reference to "any other law" is
2 substituted for the former reference to "any provision of law" to state
3 expressly that which was only implied in the former law.

4 Also in subsection (b) of this section, the references to correctional facilities
5 "in" the Division of Correction are substituted for the former references to
6 facilities "within the jurisdiction of" the Division for consistency
7 throughout this article. See General Revisor's Note to this article.

8 Also in subsection (b) of this section, the reference to the "case
9 management unit" is substituted for the former reference to the
10 "classification office" to reflect current nomenclature within the Division.

11 In subsection (c) of this section, the requirement that the Commissioner
12 "adopt regulations" is substituted for the former requirement that the
13 Commissioner "promulgate rules and regulations" for consistency
14 throughout this article. See General Revisor's Note to this article.

15 Also in subsection (c) of this section, the requirement that regulations be
16 adopted to "carry out" the provisions of this section is substituted for the
17 former requirement that regulations be adopted to "implement" this
18 section for consistency throughout this article. See General Revisor's Note
19 to this article.

20 Defined terms: "Commissioner of Correction" § 1-101

21 "Correctional facility" § 1-101

22 "Division of Correction" § 1-101

23 "Inmate" § 1-101

24 "Local correctional facility" § 1-101

25 9-306. TRANSFER OF INMATES FROM THE DIVISION OF CORRECTION TO FEDERAL
26 CORRECTIONAL FACILITIES.

27 THE COMMISSIONER OF CORRECTION MAY CONTRACT WITH THE FEDERAL
28 GOVERNMENT FOR THE TRANSFER OF INMATES FROM CORRECTIONAL FACILITIES
29 IN THE DIVISION OF CORRECTION TO APPROPRIATE FACILITIES OPERATED BY OR
30 FOR THE FEDERAL GOVERNMENT.

31 REVISOR'S NOTE: This section is new language derived without substantive
32 change from former Art. 27, § 690(h).

33 Defined terms: "Commissioner of Correction" § 1-101

34 "Correctional facility" § 1-101

35 "Division of Correction" § 1-101

36 "Inmate" § 1-101

37 9-307. TRANSFER OF INMATES CONVICTED BY UNITED STATES COURTS.

38 (A) IN GENERAL.

1 ON TERMS AND CONDITIONS THAT IT PRESCRIBES, THE DIVISION OF
2 CORRECTION MAY ACCEPT CUSTODY OF ANY INDIVIDUAL WHO IS SENTENCED TO
3 THE JURISDICTION OF THE DIVISION OF CORRECTION BY THE UNITED STATES
4 DISTRICT COURT FOR THE DISTRICT OF MARYLAND.

5 (B) RULES AND DISCIPLINE.

6 WHILE IN A STATE CORRECTIONAL FACILITY, AN INDIVIDUAL WHO IS
7 SENTENCED BY THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF
8 MARYLAND TO THE JURISDICTION OF THE DIVISION OF CORRECTION IS SUBJECT TO
9 THE SAME RULES AND DISCIPLINE THAT ARE APPLICABLE TO INMATES SENTENCED
10 BY STATE COURTS TO THE JURISDICTION OF THE DIVISION.

11 REVISOR'S NOTE: This section is new language derived without substantive
12 change from former Art. 27, § 702.

13 In subsections (a) and (b) of this section, the references to an "individual"
14 are substituted for the former references to a "person" for accuracy because
15 only human beings, and not the other types of entities included in the
16 defined term "person", can be sentenced to the jurisdiction of the Division
17 of Correction. See § 1-101 of this article for the definition of "person".

18 In subsection (a) of this section, the reference to the "Division" of
19 Correction is substituted for the former obsolete reference to the
20 "Department" of Correction to reflect current nomenclature. See Ch. 401,
21 Acts of 1970.

22 In subsection (b) of this section, the reference to an individual who is
23 sentenced to the "jurisdiction of the Division of Correction" is substituted
24 for the former reference to an individual who is "sentenced to
25 imprisonment" for consistency with subsection (a) of this section.

26 Defined terms: "Division of Correction" § 1-101

27 "Inmate" § 1-101

28 "State correctional facility" § 1-101

29 9-308. TRANSFER OR EXCHANGE OF CONVICTED OFFENDERS UNDER TREATY.

30 IF A TREATY BETWEEN THE UNITED STATES AND A FOREIGN COUNTRY
31 PROVIDES FOR THE TRANSFER OR EXCHANGE OF CONVICTED OFFENDERS TO THE
32 COUNTRY OF WHICH THEY ARE CITIZENS OR NATIONALS, THE GOVERNOR MAY
33 AUTHORIZE, ON BEHALF OF THE STATE AND SUBJECT TO THE TERMS OF THE
34 TREATY, THE COMMISSIONER OF CORRECTION TO CONSENT TO THE TRANSFER OR
35 EXCHANGE OF OFFENDERS AND TAKE ANY OTHER ACTION NECESSARY TO INITIATE
36 THE PARTICIPATION OF THE STATE IN THE TREATY.

37 REVISOR'S NOTE: This section formerly was Art. 27, § 690B.

38 The former reference to a treaty "in effect" is deleted as implicit in the
39 reference to "treaty".

1 The only other changes are in style.

2 Defined term: "Commissioner of Correction" § 1-101

3 SUBTITLE 4. STATE REIMBURSEMENT OF LOCAL CORRECTIONAL FACILITIES.

4 9-401. DEFINITIONS.

5 (A) IN GENERAL.

6 IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

7 REVISOR'S NOTE: This subsection is new language derived without
8 substantive change from the introductory clause of former Art. 27, §
9 690(d)(1).

10 (B) ACTUAL NUMBER OF INMATE DAYS.

11 "ACTUAL NUMBER OF INMATE DAYS" MEANS THE NUMBER OF TOTAL INMATE
12 DAYS SERVED BY SENTENCED INMATES WITH SENTENCES OF MORE THAN 3 MONTHS
13 AND NOT MORE THAN 12 MONTHS.

14 REVISOR'S NOTE: This subsection is new language derived without
15 substantive change from former Art. 27, § 690(d)(1)(i).

16 Defined terms: "Inmate" § 1-101

17 "Sentenced inmates" § 9-401

18 (C) AVERAGE NUMBER OF INMATE DAYS.

19 "AVERAGE NUMBER OF INMATE DAYS" MEANS THE AVERAGE ANNUAL NUMBER
20 OF DAYS SERVED BY SENTENCED INMATES DURING FISCAL YEARS 1984, 1985, AND
21 1986 WHO WERE SENTENCED FOR MORE THAN 3 MONTHS AND NOT MORE THAN 12
22 MONTHS.

23 REVISOR'S NOTE: This subsection is new language derived without
24 substantive change from former Art. 27, § 690(d)(1)(ii).

25 Defined terms: "Inmate" § 1-101

26 "Sentenced inmates" § 9-401

27 (D) SENTENCED INMATES.

28 "SENTENCED INMATES" MEANS THOSE INMATES CONFINED IN A LOCAL
29 CORRECTIONAL FACILITY AFTER BEING SENTENCED TO THE CUSTODY OF THE
30 LOCAL CORRECTIONAL FACILITY FOR MORE THAN 3 MONTHS.

31 REVISOR'S NOTE: This subsection is new language derived without
32 substantive change from former Art. 27, § 690(d)(1)(iii).

33 In this subsection, the term "confined" is substituted for the former term

1 "incarcerated" for consistency with §§ 9-403(a)(1) and 9-405(a) of this
2 subtitle.

3 Defined terms: "Inmate" § 1-101

4 "Local correctional facility" § 1-101

5 (E) START-UP COSTS.

6 "START-UP COSTS" MAY INCLUDE COSTS FOR:

7 (1) CONSULTATION FEES;

8 (2) PERSONNEL;

9 (3) EQUIPMENT;

10 (4) INITIAL TRAINING FOR STAFF; AND

11 (5) OTHER SERVICES RELATED TO THE START-UP OF A LOCAL
12 CORRECTIONAL FACILITY.

13 REVISOR'S NOTE: This subsection is new language derived without
14 substantive change from the second sentence of former Art. 27, § 690(i)(2).

15 In item (4) of this subsection, the reference to initial training "for staff" is
16 added to state expressly that which was only implied in the former
17 reference to "initial training" and for consistency with § 11-308 of this
18 article.

19 In item (5) of this subsection, the defined term "local correctional facility"
20 is substituted for the former term "facility" for consistency throughout this
21 article. See § 1-101 of this article for the definition of "local correctional
22 facility".

23 Defined term: "Local correctional facility" § 1-101

24 (F) TOTAL ACTUAL ANNUAL OPERATING COSTS.

25 "TOTAL ACTUAL ANNUAL OPERATING COSTS":

26 (1) INCLUDES ALL COSTS DIRECTLY ASSOCIATED WITH OR DIRECTLY
27 ATTRIBUTABLE TO THE START-UP AND OPERATION OF A LOCAL CORRECTIONAL
28 FACILITY; AND

29 (2) DOES NOT INCLUDE:

30 (I) OVERHEAD COSTS ALLOCATED FROM OTHER GOVERNMENTAL
31 UNITS;

1 (II) DEBT SERVICE RELATED TO THE LOCAL CORRECTIONAL
 2 FACILITY THAT WAS NOT INITIATED WHOLLY OR PARTLY FOR THE SPECIFIC
 3 PURPOSE OF ACCOMMODATING STATE INMATES;

4 (III) INCOME TO THE LOCAL CORRECTIONAL FACILITY FROM:

- 5 1. FEDERAL SOURCES;
- 6 2. THE STATE, OTHER THAN FROM THE DEPARTMENT; OR
- 7 3. INMATE CONTRIBUTIONS, INCLUDING PAYMENT FOR
 8 ROOM AND BOARD FROM WORK RELEASES;

9 (IV) UNREASONABLE OR UNNECESSARY COSTS, AS THE
 10 COMMISSIONER OF CORRECTION DETERMINES, FOR SERVICES OR PROGRAMS THAT
 11 ARE NOT PROVIDED AT STATE CORRECTIONAL FACILITIES; OR

12 (V) THE MEDICAL EXPENSES FOR AN INMATE DESCRIBED UNDER §
 13 9-405 OF THIS SUBTITLE THAT EXCEED \$25,000 IN A FISCAL YEAR.

14 REVISOR'S NOTE: This subsection is new language derived without
 15 substantive change from former Art. 27, § 690(i)(3), (j)(2), and the first
 16 sentence of (i)(2).

17 In items (1) and (2)(ii) of this subsection, the defined term "local
 18 correctional facility" is substituted for the former term "facility" for
 19 consistency throughout this article. See § 1-101 of this article for the
 20 definition of "local correctional facility". Correspondingly, in item (2)(iii) of
 21 this subsection, the defined term "local correctional facility" is substituted
 22 for the former term "institution".

23 In item (2)(i) of this subsection, the reference to "governmental units" is
 24 substituted for the former reference to "agencies or institutions" for
 25 consistency throughout this article. See General Revisor's Note to this
 26 article.

27 Defined terms: "Commissioner of Correction" § 1-101

28 "Department" § 1-101

29 "Inmate" § 1-101

30 "Local correctional facility" § 1-101

31 "State correctional facility" § 1-101

32 9-402. REIMBURSEMENT FOR OPERATING COSTS -- SENTENCED INMATES.

33 THE STATE SHALL REIMBURSE EACH COUNTY ACCORDING TO THE FOLLOWING
 34 FORMULA SO THAT EACH COUNTY RECEIVES THE GREATER OF:

35 (1) FOR SENTENCED INMATES WHO ARE SENTENCED ON OR AFTER
 36 JANUARY 1, 1987, THE STATE SHALL REIMBURSE A COUNTY FOR EACH DAY FROM
 37 THE 91ST DAY THROUGH THE 365TH DAY THAT SENTENCED INMATES ARE CONFINED

1 IN A LOCAL CORRECTIONAL FACILITY AT A RATE OF REIMBURSEMENT OF 50% OF
2 THE RATE SET FORTH IN § 9-403 OF THIS SUBTITLE; OR

3 (2) FOR EACH FISCAL YEAR, THE SECRETARY SHALL DETERMINE FOR
4 EACH COUNTY THE DIFFERENCE BETWEEN THE ACTUAL NUMBER OF INMATE DAYS
5 FOR THE PREVIOUS FISCAL YEAR AND THE AVERAGE NUMBER OF INMATE DAYS AND
6 MULTIPLY THIS NUMBER OF INMATE DAYS, IF POSITIVE, BY 85% OF THE RATE OF
7 REIMBURSEMENT SET FORTH IN § 9-403 OF THIS SUBTITLE.

8 REVISOR'S NOTE: This section is new language derived without substantive
9 change from former Art. 27, § 690(d)(2).

10 In the introductory language of this section, the second reference to "each
11 county" is substituted for the former reference to "each ... subdivision" for
12 consistency within this section.

13 Also in the introductory language of this section, the former reference to
14 each "eligible" county is deleted as implicit in the reference to each
15 "county" in light of the specific formula for reimbursement set forth in this
16 section.

17 In item (2) of this section, the reference to "each fiscal year" is substituted
18 for the former obsolete reference to "Fiscal Year 1987 and each fiscal year
19 thereafter".

20 Also in item (2) of this section, the reference to the "previous" fiscal year is
21 substituted for the former reference to the "prior" fiscal year for
22 consistency with § 9-403 of this subtitle.

23 Defined terms: "Actual number of inmate days" § 9-401

24 "Average number of inmate days" § 9-401

25 "County" § 1-101

26 "Inmate" § 1-101

27 "Local correctional facility" § 1-101

28 "Secretary" § 1-101

29 "Sentenced inmates" § 9-401

30 9-403. REIMBURSEMENT RATE.

31 (A) TOTAL ACTUAL ANNUAL OPERATING COSTS USED IN FORMULATING
32 AGREEMENT FOR REIMBURSEMENT.

33 THE DIVISION OF CORRECTION SHALL USE THE TOTAL ACTUAL ANNUAL
34 OPERATING COSTS OF A LOCAL CORRECTIONAL FACILITY FOR THE PREVIOUS FISCAL
35 YEAR DIVIDED BY THE TOTAL ACTUAL INMATE DAYS OF THE LOCAL CORRECTIONAL
36 FACILITY FOR THE PREVIOUS FISCAL YEAR WHEN FORMULATING AN AGREEMENT
37 FOR REIMBURSEMENT OF A COUNTY FOR THE CONFINEMENT OF INMATES:

38 (1) IN A LOCAL CORRECTIONAL FACILITY WHO HAVE BEEN SENTENCED
39 TO THE JURISDICTION OF THE DIVISION OF CORRECTION; AND

1 (2) SENTENCED TO A LOCAL CORRECTIONAL FACILITY WITH
2 SENTENCES OF MORE THAN 3 MONTHS AND NOT MORE THAN 18 MONTHS.

3 (B) INMATES SENTENCED TO JURISDICTION OF DIVISION OF CORRECTION.

4 WHEN PROVIDING REIMBURSEMENT FOR THE HOUSING OF AN INMATE
5 SENTENCED TO THE JURISDICTION OF THE DIVISION OF CORRECTION, THE DIVISION
6 OF CORRECTION:

7 (1) MAY NOT REIMBURSE FOR THE FIRST DAY OF CONFINEMENT; AND

8 (2) SHALL PAY FOR EACH SUBSEQUENT DAY, INCLUDING THE DAY OF
9 RELEASE.

10 (C) NEW LOCAL CORRECTIONAL FACILITIES.

11 FOR THE PURPOSE OF CALCULATING REIMBURSEMENT UNDER THIS SUBTITLE
12 TO A COUNTY FOR INMATES TO BE CONFINED IN A NEW LOCAL CORRECTIONAL
13 FACILITY THAT HAS NOT REPLACED AN EARLIER EXISTING LOCAL CORRECTIONAL
14 FACILITY, THE COMMISSIONER OF CORRECTION MAY SELECT AS THE PREVIOUS
15 FISCAL YEAR'S TOTAL ACTUAL ANNUAL OPERATING COST:

16 (1) THE BUDGETED COST OF OPERATION OF THE NEW LOCAL
17 CORRECTIONAL FACILITY FOR ITS FIRST FULL YEAR OF OPERATION; OR

18 (2) THE TOTAL ACTUAL ANNUAL OPERATING COST FOR THE PREVIOUS
19 FISCAL YEAR OF THE EXISTING LOCAL CORRECTIONAL FACILITY IN THAT COUNTY.

20 REVISOR'S NOTE: This section is new language derived without substantive
21 change from former Art. 27, § 690(i)(1), (4), and (5).

22 Throughout this section, the defined term "total actual annual operating
23 costs" is substituted for the former term "actual annual operating costs" for
24 consistency with § 9-401(f) of this subtitle.

25 In subsection (b) of this section, the phrase inmates "sentenced to the
26 jurisdiction of the Division of Correction" is substituted for the former
27 reference to "State-sentenced" inmates for clarity and for consistency with
28 subsection (a)(1) of this section.

29 In the introductory language of subsection (c) of this section, the phrase
30 "[f]or the purpose of calculating reimbursement under this subtitle" is
31 substituted for the former phrase "[w]hen providing reimbursement under
32 [Article 27, § 690(d)]" to reflect the new structure of this subtitle. Former
33 Art. 27, § 690(d)(1), which set forth a number of defined terms, is revised in
34 § 9-401(a) through (d) of this subtitle. Former Art. 27, § 690(d)(2), which
35 established rules relating to the calculation of reimbursement for
36 "sentenced inmates" (*i.e.*, inmates sentenced to a local correctional facility
37 for more than three months), is revised in § 9-402 of this subtitle. Former
38 Art. 27, § 690(d)(3), which established reimbursement procedures for

1 "sentenced inmates" as well as inmates under sentence to the Division of
2 Correction but held in a local correctional facility, is revised in § 9-404 of
3 this subtitle.

4 Also in the introductory language of subsection (c) of this section, the
5 reference to inmates who are "confined" in a new local correctional facility
6 is substituted for the former reference to inmates who are "housed" in a
7 new local correctional facility for consistency throughout this article. See,
8 e.g., § 9-401(d) of this subtitle.

9 The Correctional Services Article Review Committee notes, for
10 consideration by the General Assembly, that the discretion granted to the
11 Commissioner of Correction in subsection (c) of this section to select
12 between different ways of determining the previous fiscal year's total
13 actual annual operating cost is not guided by any criteria or standard. The
14 General Assembly may wish to establish a standard or certain criteria to
15 be considered by the Commissioner in making this decision.

16 Defined terms: "Commissioner of Correction" § 1-101

17 "County" § 1-101

18 "Division of Correction" § 1-101

19 "Inmate" § 1-101

20 "Local correctional facility" § 1-101

21 "Total actual annual operating costs" § 9-401

22 9-404. REIMBURSEMENT PROCEDURES.

23 (A) CERTIFICATION TO COMPTROLLER.

24 ON OR BEFORE SEPTEMBER 30, DECEMBER 31, MARCH 31, AND JUNE 30 OF EACH
25 YEAR, THE SECRETARY SHALL CERTIFY TO THE COMPTROLLER 25% OF THE AMOUNT
26 ESTIMATED TO BE THE AMOUNT DUE TO A COUNTY UNDER THIS SUBTITLE.

27 (B) COMPENSATION FOR DISCREPANCIES.

28 IN THE SEPTEMBER PAYMENT, THE STATE SHALL COMPENSATE A COUNTY FOR
29 A DISCREPANCY BETWEEN THE PAYMENTS MADE AND THE ACTUAL REQUIRED
30 REIMBURSEMENT FOR THE PREVIOUS FISCAL YEAR.

31 (C) DUTY OF COMPTROLLER.

32 WITHIN 5 DAYS AFTER THE COMPTROLLER RECEIVES A CERTIFICATION UNDER
33 THIS SECTION FROM THE SECRETARY, THE COMPTROLLER SHALL DRAW A WARRANT
34 ON THE TREASURER FOR THE AMOUNT DUE TO A COUNTY.

35 (D) DUTY OF TREASURER.

36 THE TREASURER SHALL IMMEDIATELY PAY THE AMOUNT DUE TO THE COUNTY.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 27, § 690(d)(3).

3 In subsections (b) and (c) of this section, the requirement that "the
4 Secretary shall certify to the State Comptroller", which was in the
5 introductory clause of former Art. 27, § 690(d)(3), is deleted to clarify that
6 the certification requirement did not apply to former Art. 27, § 690(d)(3)(ii)
7 and (iii), which are revised in subsections (b) and (c) of this section.

8 Defined terms: "Comptroller" § 1-101

9 "County" § 1-101

10 "Secretary" § 1-101

11 "Treasurer" § 1-101

12 9-405. SAME -- MEDICAL EXPENSES.

13 AFTER EACH FISCAL YEAR THE STATE SHALL REIMBURSE A COUNTY FOR
14 MEDICAL EXPENSES THAT EXCEED \$25,000 FOR EACH INMATE CONFINED IN A LOCAL
15 CORRECTIONAL FACILITY, REGARDLESS OF WHETHER THE INMATE HAS BEEN
16 SENTENCED.

17 REVISOR'S NOTE: This section is new language derived without substantive
18 change from former Art. 27, § 690(j)(1).

19 Defined terms: "County" § 1-101

20 "Inmate" § 1-101

21 "Local correctional facility" § 1-101

22 SUBTITLE 5. INMATE WORK FORCE.

23 9-501. DEFINITIONS.

24 (A) IN GENERAL.

25 IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

26 REVISOR'S NOTE: This subsection is new language added as standard
27 introductory language to a definition section.

28 (B) COUNTY ROADS AUTHORITY.

29 (1) "COUNTY ROADS AUTHORITY" MEANS THE GOVERNMENTAL ENTITY
30 THAT HAS CONTROL OF THE PUBLIC ROADS OF A COUNTY.

31 (2) "COUNTY ROADS AUTHORITY" INCLUDES, IN A COUNTY IN WHICH
32 THE BOARD OF COUNTY COMMISSIONERS HAS CONTROL OF THE PUBLIC ROADS OF
33 THE COUNTY, THE BOARD OF COUNTY COMMISSIONERS.

34 REVISOR'S NOTE: This subsection is new language added to avoid repetition
35 of references to "the governmental entity that has control of the public

1 roads of a county" and "the board of county commissioners".

2 Defined terms: "County" § 1-101

3 "Public roads" § 9-501

4 (C) PUBLIC ROADS.

5 "PUBLIC ROADS" INCLUDES HIGHWAYS, ROADS, BRIDGES, AND STREETS UNDER
6 THE JURISDICTION OF THE STATE OR A COUNTY OR MUNICIPAL CORPORATION OF
7 THE STATE.

8 REVISOR'S NOTE: This subsection is new language added for consistency and
9 to avoid repetition of "public roads and bridges", "roads and streets",
10 "public highways", and similar references throughout this subtitle.

11 Defined term: "County" § 1-101

12 9-502. POLICY.

13 IT IS THE POLICY OF THE STATE THAT, BECAUSE OF THE ENFORCED IDLENESS
14 OF INMATES, IT IS NECESSARY AND DESIRABLE THAT USEFUL WORK ON PROJECTS
15 IN THE STATE BE FOUND FOR INMATES AND THAT THOSE INMATES WHO MAY BE
16 USED SAFELY FOR MAINTENANCE, CONSTRUCTION, OR RECONSTRUCTION PROJECTS
17 SHALL BE ASSIGNED THAT WORK.

18 REVISOR'S NOTE: This section is new language derived without substantive
19 change from former Art. 27, § 711A.

20 The former phrase, "declared to be" the policy of the State, is deleted as
21 surplusage.

22 The reference to "projects in the State" is substituted for the former
23 reference to "State projects" to clarify that the application of this subtitle is
24 not limited to State-funded projects.

25 The reference to inmates being "assigned" work is substituted for the
26 former archaic reference to inmates being "put upon" work for clarity.

27 Defined term: "Inmate" § 1-101

28 9-503. COUNTY ROAD WORK BY COUNTY INMATES.

29 (A) IN GENERAL.

30 THE COUNTY ROADS AUTHORITY MAY EMPLOY ON THE PUBLIC ROADS OF THE
31 COUNTY MALE INMATES WHO HAVE BEEN SENTENCED TO TERMS OF
32 IMPRISONMENT IN A LOCAL CORRECTIONAL FACILITY IN THE COUNTY WHO THE
33 COUNTY ROADS AUTHORITY FINDS ARE PHYSICALLY ABLE TO PERFORM THE WORK.

34 (B) SHERIFF OR CUSTODIAN TO PROVIDE INMATES.

1 ON THE WRITTEN ORDER OF THE BOARD OF COUNTY COMMISSIONERS OR THE
 2 COUNTY EXECUTIVE OF A COUNTY, THE MANAGING OFFICIAL OF A LOCAL
 3 CORRECTIONAL FACILITY IN THE COUNTY SHALL SEND, UNDER A COMPETENT
 4 GUARD, THE NUMBER OF ABLE-BODIED INMATES WHO HAVE BEEN SENTENCED TO
 5 TERMS OF IMPRISONMENT IN THE LOCAL CORRECTIONAL FACILITY THAT THE
 6 COUNTY REQUIRES, TO WORK ON PUBLIC ROADS OF THE COUNTY, INCLUDING THE
 7 ADJACENT LAND AREAS OF MUNICIPAL CORPORATIONS IN THE COUNTY, OR IN ANY
 8 QUARRY, PIT, OR YARD IN PREPARING MATERIALS FOR USE ON PUBLIC ROADS OF
 9 THE COUNTY.

10 (C) TRANSPORTING, GUARDING, AND PROVIDING FOR CARE OF INMATES.

11 WHILE EMPLOYING INMATES AS AUTHORIZED UNDER THIS SECTION, THE
 12 COUNTY ROADS AUTHORITY SHALL PROVIDE FOR THE GUARDING, TRANSPORTING,
 13 LODGING, FEEDING, AND MEDICAL CARE OF THE INMATES.

14 (D) REIMBURSEMENT OF COSTS.

15 THE GOVERNING BODY OF THE COUNTY SHALL REIMBURSE THE MANAGING
 16 OFFICIAL OUT OF THE COUNTY FUND FOR THE EXPENSES INCURRED IN
 17 TRANSPORTING THE INMATES TO AND FROM THE WORK SITE AND IN PROPERLY
 18 GUARDING THE INMATES AT THE WORK SITE WHILE AT WORK UNDER THE
 19 DIRECTION OF A COUNTY ROAD REPRESENTATIVE AND UNDER THE REGULATIONS
 20 THAT THE MANAGING OFFICIAL CONSIDERS NECESSARY FOR THE HEALTH AND
 21 SAFE CUSTODY OF THE INMATES.

22 REVISOR'S NOTE: This section is new language derived without substantive
 23 change from former Art. 27, §§ 644 and 712.

24 In subsection (a) of this section, the reference to any county "in the State of
 25 Maryland" is deleted as surplusage. See § 1-101 of this article for the
 26 definition of "county".

27 Also in subsection (a) of this section, the former reference to employment
 28 "as a convict road force" is deleted as surplusage.

29 Also in subsection (a) of this section, the reference to inmates who have
 30 been sentenced to terms "of imprisonment" is added to state expressly that
 31 which was only implied in the former reference to "terms". See General
 32 Revisor's Note to this article. This addition clarifies that this section does
 33 not apply to inmates who are confined in a local correctional facility in a
 34 pretrial or pre-sentence status.

35 The Correctional Services Article Review Committee notes, for
 36 consideration by the General Assembly, that the reference to "male"
 37 inmates in subsection (a) of this section may reflect outdated assumptions
 38 about differences between male and female inmates and may be a violation
 39 of the guarantees of equal protection that are embodied in the State and
 40 federal constitutions. See also §§ 9-507(b) and 9-508(a) and (b) of this
 41 subtitle.

- 1 In subsection (b) of this section, the reference to inmates "who have been
2 sentenced to terms of imprisonment" is substituted for the former
3 reference to inmates "undergoing punishment under sentence of a court"
4 for clarity and for consistency with subsection (a) of this section.
- 5 Also in subsection (b) of this section, the references to "public" roads are
6 added for consistency with subsection (a) of this section.
- 7 Also in subsection (b) of this section, the reference to "municipal
8 corporations" is substituted for the former reference to "incorporated
9 municipality" for consistency with Md. Constitution, Art. XI-E.
- 10 In subsection (c) of this section, the reference to medical "care of" inmates
11 is substituted for the former reference to medical "attention of" inmates for
12 consistency with § 9-511(a) of this subtitle.
- 13 In subsection (d) of this section, the reference to "governing body" is
14 substituted for the former reference to "county commissioners" for
15 accuracy since the application of this subsection is not limited to
16 commission counties.
- 17 Also in subsection (d) of this section, the reference to expenses "incurred" is
18 substituted for the former reference to expenses "he may be put to" for
19 clarity.
- 20 Also in subsection (d) of this section, the reference to transporting "and"
21 guarding is substituted for the former reference to transporting "or"
22 guarding to clarify that reimbursement for transporting does not preclude
23 reimbursement for guarding and vice versa.
- 24 Also in subsection (d) of this section, the reference to "transporting"
25 inmates is substituted for the former reference to "conveying" prisoners for
26 consistency within this subtitle. See, e.g., subsection (c) of this section.
- 27 Also in subsection (d) of this section, the reference to "work site" is
28 substituted for the former references to "the road ... quarry, pit or yard"
29 and "the road or at the quarry, pit or yard", respectively, for brevity.
- 30 Also in subsection (d) of this section, the former reference to
31 "representatives" is deleted in light of the reference to "representative" and
32 Art. 1, § 8 of the Code, which provides that the singular generally includes
33 the plural.
- 34 Defined terms: "County" § 1-101
- 35 "County roads authority" § 9-501
- 36 "Inmate" § 1-101
- 37 "Local correctional facility" § 1-101
- 38 "Managing official" § 1-101
- 39 "Public roads" § 9-501

1 9-504. COUNTY ROAD WORK BY STATE INMATES.

2 (A) IN GENERAL.

3 (1) A COUNTY ROADS AUTHORITY MAY REQUEST THAT THE DIVISION OF
4 CORRECTION FURNISH INMATES WHO MAY BE PROFITABLY EMPLOYED IN THE
5 REPAIR OR CONSTRUCTION OF PUBLIC ROADS OF THE COUNTY.

6 (2) AFTER RECEIVING A REQUEST FROM THE COUNTY ROADS
7 AUTHORITY, THE DIVISION OF CORRECTION SHALL FURNISH THE NUMBER OF
8 REQUESTED INMATES THAT ARE AVAILABLE TO WORK ON THE PUBLIC ROADS OF
9 THE COUNTY.

10 (B) TRANSPORTING, GUARDING, AND PROVIDING FOR CARE OF INMATES.

11 (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION AND SUBSECTION
12 (C) OF THIS SECTION, THE DIVISION OF CORRECTION SHALL PROVIDE FOR THE
13 GUARDING, TRANSPORTING, LODGING, FEEDING, CLOTHING, AND MEDICAL CARE OF
14 STATE INMATES EMPLOYED ON PUBLIC ROADS OF A COUNTY.

15 (2) WHEN STATE INMATES ARE EMPLOYED IN THE SAME WORK FORCE
16 AS INMATES OF A COUNTY THAT REQUESTED THAT THE DIVISION OF CORRECTION
17 FURNISH STATE INMATES:

18 (I) THE DIVISION OF CORRECTION SHALL FURNISH ALL
19 NECESSARY GUARDS AT THE EXPENSE OF THE COUNTY ROADS AUTHORITY; AND

20 (II) THE COUNTY ROADS AUTHORITY SHALL PROVIDE FOR THE
21 LODGING, FEEDING, AND MEDICAL CARE OF THE INMATES AS REQUIRED BY §
22 9-503(C) OF THIS SUBTITLE.

23 (C) REIMBURSEMENT OF COSTS.

24 THE COUNTY ROADS AUTHORITY SHALL REIMBURSE THE DIVISION OF
25 CORRECTION FOR ALL EXPENSES INCURRED IN GUARDING, TRANSPORTING, AND
26 MAINTAINING STATE INMATES WHO ARE FURNISHED FOR WORK ON PUBLIC ROADS
27 OF THE COUNTY AT THE REQUEST OF THE COUNTY ROADS AUTHORITY.

28 (D) PAYMENT OF DAILY WAGES; DISPOSITION.

29 (1) A COUNTY ROADS AUTHORITY USING STATE INMATES AS PROVIDED
30 IN THIS SECTION SHALL PAY TO THE DIVISION OF CORRECTION THE DAILY AMOUNT
31 CONTRACTUALLY AGREED ON BY THE COUNTY ROADS AUTHORITY AND THE
32 DIVISION OF CORRECTION FOR EACH DAY THAT A STATE INMATE WORKS ON PUBLIC
33 ROADS OF THE COUNTY.

34 (2) THE DIVISION OF CORRECTION SHALL HOLD THE PAYMENTS MADE
35 UNDER THIS SECTION TO THE CREDIT OF EACH INMATE UNDER APPLICABLE LAW.

1 (E) USE OF COUNTY'S HIGHWAY CONSTRUCTION FUNDS FOR MAINTENANCE
2 OF INMATE WORK FORCE.

3 THE COUNTY ROADS AUTHORITY MAY USE MONEY APPROPRIATED TO
4 CONSTRUCT COUNTY OR STATE AID ROADS UNDER ITS JURISDICTION AS NECESSARY
5 TO MAINTAIN THE INMATE WORK FORCE AND TO PAY FOR THE MATERIALS AND
6 EQUIPMENT USED BY THE INMATE WORK FORCE.

7 REVISOR'S NOTE: This section is new language derived without substantive
8 change from former Art. 27, §§ 713, 715, and 716.

9 Throughout this section, references to the "Division of Correction" are
10 substituted for the former obsolete references to "Board of Correction" for
11 accuracy.

12 In subsection (a)(1) of this section, the former reference to "such
13 additional" inmates as may be profitably employed is deleted as
14 surplusage.

15 In subsection (a)(2) of this section, the reference to the "number of
16 requested" inmates is substituted for the former reference to "such"
17 inmates to state expressly that which was only implied in the former law.

18 Also in subsection (a)(2) of this section, the phrase "[a]fter receiving a
19 request from the county roads authority" is added to clarify that, under
20 this section, the Division of Correction is required to furnish inmates only
21 if requested to do so by a county.

22 In subsection (b) of this section, the reference to medical "care of" inmates
23 is substituted for the former reference to medical "attention for" inmates
24 for consistency with § 9-511(a) of this subtitle.

25 In subsection (c) of this section, the reference to work "on public roads of
26 the county" is substituted for the former reference to "road" work for
27 clarity and consistency within this subtitle. See § 9-501 of this subtitle for
28 the definition of "public roads".

29 Also in subsection (c) of this section, the reference to "reimburs[ing]" the
30 Division of Correction is substituted for the former reference to providing a
31 "refund" to the Division of Correction for consistency with § 9-503(d) of
32 this subtitle. Similarly, the reference to expenses "incurred in" guarding,
33 transporting, and maintaining State inmates is substituted for the former
34 reference to expenses "of" such activities for consistency with § 9-503(d) of
35 this subtitle.

36 In subsection (d)(2) of this section, the former reference to "regulations" is
37 deleted as included in the reference to "law". See General Revisor's Note to
38 this article.

39 The Correctional Services Article Review Committee notes, for

1 consideration by the General Assembly, that subsection (d) of this section
2 sets forth rules governing the disposition of an inmate's earnings. The
3 Committee further notes that there are significant inconsistencies
4 throughout this article in provisions governing the disposition of an
5 inmate's earnings in different contexts. See, e.g., §§ 3-804, 3-807(e)(1),
6 9-512(b), 11-319(b), 11-407(b), 11-604, 11-703(d)(4), 11-704(d), 11-705(i),
7 11-706(b)(5), 11-708(b)(7), 11-711(g), 11-712(c)(5), 11-714(c)(4), 11-715(e),
8 11-716(g), 11-717(e), 11-718(e), 11-719(b), 11-722(b), 11-724(g), and
9 11-725(b) of this article. The General Assembly may wish to examine all of
10 the relevant provisions and determine whether they should be changed to
11 reflect a more consistent policy in this area.

12 Defined terms: "County" § 1-101

13 "County roads authority" § 9-501

14 "Division of Correction" § 1-101

15 "Inmate" § 1-101

16 "Public roads" § 9-501

17 9-505. STATE HIGHWAY WORK BY STATE INMATES; REQUIREMENTS.

18 (A) APPLICATION BY STATE HIGHWAY ADMINISTRATION FOR INMATE LABOR.

19 THE STATE HIGHWAY ADMINISTRATION MAY APPLY TO THE DIVISION OF
20 CORRECTION FOR A STATE INMATE WORK FORCE TO BE USED TO CONSTRUCT AND
21 MAINTAIN STATE HIGHWAYS.

22 (B) APPLICATION OF CERTAIN REQUIREMENTS TO STATE HIGHWAY
23 ADMINISTRATION.

24 FOR THE PURPOSE OF THIS SECTION, THE STATE HIGHWAY ADMINISTRATION IS
25 SUBJECT TO THE REQUIREMENTS AND CONDITIONS OF THIS SUBTITLE THAT APPLY
26 TO A COUNTY ROADS AUTHORITY.

27 REVISOR'S NOTE: This section is new language derived without substantive
28 change from former Art. 27, § 717.

29 In subsection (a) of this section, the former phrase "similar to the boards of
30 county commissioners" is deleted in light of the reference in subsection (b)
31 of this section to the State Highway Administration being "subject to the
32 requirements and conditions ... that apply to a county roads authority".

33 In subsection (b) of this section, the introductory phrase is added for
34 clarity.

35 Defined terms: "County roads authority" § 9-501

36 "Division of Correction" § 1-101

37 "Inmate" § 1-101

1 9-506. GOOD BEHAVIOR ALLOWANCE.

2 THE DIVISION OF CORRECTION MAY ADOPT REGULATIONS, APPLICABLE TO
3 EACH INMATE WHO IS EMPLOYED IN PUBLIC WORK UNDER THIS SUBTITLE, THAT
4 GRANT AN ADDITIONAL GOOD BEHAVIOR ALLOWANCE TO THE INMATE
5 CONDITIONED ON THE INMATE'S GOOD DEPARTMENT AND COMPLIANCE WITH THE
6 REGULATIONS ADOPTED BY THE DIVISION OF CORRECTION FOR THE MANAGEMENT
7 AND CONTROL OF INMATES EMPLOYED IN PUBLIC WORK.

8 REVISOR'S NOTE: This section is new language derived without substantive
9 change from former Art. 27, § 718.

10 In this section, the first reference to "regulations" is substituted for the
11 former reference to "special rules" for consistency throughout this article.
12 See General Revisor's Note to this article. Similarly, the former reference
13 to "rules" is deleted as unnecessary in light of the second reference to
14 "regulations".

15 Also in this section, the former reference to regulations adopted by "said
16 superintendent" is deleted as unnecessary in light of the general authority
17 granted under this section to the Division of Correction to adopt
18 regulations.

19 Also in this section, the former reference to "cheerful" compliance is
20 deleted as surplusage.

21 The Correctional Services Article Review Committee notes, for
22 consideration by the General Assembly, that the meaning of the reference
23 to a "good behavior allowance" in this section is unclear. The Committee is
24 uncertain as to how a good behavior allowance granted under this section
25 relates to diminution credits awarded for good conduct under §§ 3-704,
26 11-503, and 11-504 of this article, for work tasks under §§ 3-705 and
27 11-505 of this article, and for special work projects under §§ 3-707 and
28 11-506 of this article. Diminution credits awarded under these sections are
29 used to reduce an inmate's term of confinement. See § 7-101(g) of this
30 article (which defines the term "mandatory supervision"). Did the General
31 Assembly intend that a "good behavior allowance" granted under this
32 section be used to reduce an inmate's term of confinement? This section
33 refers to an "additional" good behavior allowance. Did the General
34 Assembly intend to authorize the Division of Correction to grant
35 diminution credits for "good behavior" under this section in addition to
36 diminution credits awarded for good conduct under §§ 3-704, 11-503, and
37 11-504 of this article, for work tasks under §§ 3-705 and 11-505 of this
38 article, and for special work projects under §§ 3-707 and 11-506 of this
39 article?

40 The General Assembly may wish to repeal this section in light of the
41 specific provisions regarding diminution credits in §§ 3-704, 3-705, 3-707,
42 11-503, 11-504, 11-505, and 11-506 of this article. Alternatively, the

1 General Assembly may wish to clarify: (1) whether a good behavior
2 allowance granted under this section should be used to reduce an inmate's
3 term of confinement; and (2) if so, whether diminution credits for "good
4 behavior" may be granted under this section in addition to the diminution
5 credits awarded under §§ 3-704, 3-705, 3-707, 11-503, 11-504, 11-505,
6 and 11-506 of this article. See also § 9-513 of this subtitle and
7 accompanying Revisor's Note.

8 The Correctional Services Article Review Committee further notes, for
9 consideration by the General Assembly, that this section authorizes the
10 Division of Correction to adopt regulations that are applicable to each
11 inmate who is employed in public work "under this subtitle". This
12 language is technically broader than the language of former Art. 27, § 718,
13 which authorized the Division of Correction to adopt regulations that were
14 applicable to each inmate employed in public work under former Art. 27, §§
15 711A through 726, because former Art. 27, § 681L and former Art. 88B, § 26
16 are also revised in this subtitle. See §§ 9-519 and 9-520 of this subtitle. No
17 substantive change is intended. However, in light of the questions
18 discussed above in this Revisor's Note regarding the meaning of this
19 section, the General Assembly may wish to examine whether the reference
20 to an inmate employed in public work "under this subtitle" reflects a
21 substantive change, *i.e.*, whether it allows the Division of Correction to
22 award diminution credits to an inmate who engages in work under §§
23 9-519 and 9-520 of this subtitle in addition to those diminution credits
24 that may be awarded under §§ 3-704, 3-705, 3-707, 11-503, 11-504,
25 11-505, and 11-506 of this article.

26 Defined terms: "Division of Correction" § 1-101

27 "Inmate" § 1-101

28 9-507. INMATES SUBJECT TO LABOR ON ROAD WORK FORCE.

29 (A) SCOPE OF SECTION.

30 THE PROVISIONS OF THIS SECTION AND §§ 9-508 THROUGH 9-514 OF THIS
31 SUBTITLE DO NOT APPLY TO:

32 (1) THE BALTIMORE CITY DETENTION CENTER;

33 (2) THE MAYOR AND CITY COUNCIL OF BALTIMORE; OR

34 (3) THE PUBLIC ROADS OF BALTIMORE CITY.

35 (B) INMATES REQUIRED TO LABOR ON ROADS.

36 EACH MALE INMATE OF A STATE OR LOCAL CORRECTIONAL FACILITY MAY BE
37 REQUIRED TO WORK ON PUBLIC ROADS IN ACCORDANCE WITH §§ 9-508 THROUGH
38 9-514 OF THIS SUBTITLE.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 27, § 719.

3 In subsection (a) of this section, the reference to the "Baltimore City
4 Detention Center" is substituted for the former reference to the "Baltimore
5 City jail" to reflect the provisions of Ch. 59 of the Acts of 1991, which
6 created the Baltimore City Detention Center.

7 In subsection (b) of this section, the former reference to "the State, county
8 and city roads and streets" is deleted as included in the reference to the
9 defined term "public roads". See § 9-501 of this subtitle for the definition
10 of "public roads".

11 The Correctional Services Article Review Committee notes, for
12 consideration by the General Assembly, that the reference to "male"
13 inmates in subsection (b) of this section may reflect outdated assumptions
14 about differences between male and female inmates and may be a violation
15 of the guarantees of equal protection that are embodied in the State and
16 federal constitutions. See also §§ 9-503(a) and 9-508(a) and (b) of this
17 subtitle.

18 Defined terms: "Inmate" § 1-101

19 "Local correctional facility" § 1-101

20 "Public roads" § 9-501

21 "State correctional facility" § 1-101

22 9-508. CERTIFICATION TO GOVERNOR OF INMATES AVAILABLE FOR ROAD WORK
23 FORCE.

24 (A) CERTIFICATION BY COMMISSIONER.

25 THE GOVERNOR MAY REQUIRE THAT THE COMMISSIONER OF CORRECTION
26 CERTIFY TO THE GOVERNOR THE NUMBER OF MALE INMATES WHO ARE CONFINED
27 IN CORRECTIONAL FACILITIES IN THE DIVISION OF CORRECTION AND WHO ARE
28 AVAILABLE AND PHYSICALLY ABLE TO WORK ON PUBLIC ROADS OF THE STATE.

29 (B) CERTIFICATION BY LOCAL GOVERNING BODY.

30 IF THE GOVERNING BODY OF A COUNTY OR MUNICIPAL CORPORATION DESIRES
31 THAT INMATES OF A CORRECTIONAL FACILITY UNDER ITS JURISDICTION WORK ON
32 PUBLIC ROADS OF THE STATE, THE GOVERNING BODY MAY CERTIFY TO THE
33 GOVERNOR THE NUMBER OF MALE INMATES WHO ARE AVAILABLE AND PHYSICALLY
34 ABLE TO PERFORM THE WORK.

35 REVISOR'S NOTE: This section is new language derived without substantive
36 change from the first sentence of former Art. 27, § 720 and the first clause
37 of the second sentence as it related to the authority of local governments to
38 certify the number of inmates to the Governor.

39 In subsection (a) of this section, the former phrase "from time to time" is

1 deleted as surplusage.

2 Also in subsection (a) of this section, the reference to correctional facilities
3 "in" the Division of Correction is substituted for the former reference to
4 correctional facilities "under the jurisdiction" of the Division of Correction
5 for consistency throughout this article. See General Revisor's Note to this
6 article.

7 In subsections (a) and (b) of this section, the former references to the roads
8 of "any county, city or town thereof" are deleted as included in the
9 references to the roads "of the State".

10 The Correctional Services Article Review Committee notes, for
11 consideration by the General Assembly, that the reference to "male"
12 inmates in subsection (a) of this section may reflect outdated assumptions
13 about differences between male and female inmates and may be a violation
14 of the guarantees of equal protection that are embodied in the State and
15 federal constitutions. See also §§ 9-503(a) and 9-507(b) of this subtitle.

16 In subsection (b) of this section, the former reference to a city "other than
17 Baltimore City" is deleted in light of the exclusion of Baltimore City from
18 the application of this section under § 9-507(a) of this subtitle.

19 Also in subsection (b) of this section, the reference to the "governing body of
20 a county" is substituted for the former reference to the "county
21 commissioners of any county" to include those counties that have changed
22 their form of government since this section was first enacted.

23 Also in subsection (b) of this section, the reference to a "municipal
24 corporation" is substituted for the former reference to a "town or city" for
25 consistency with Md. Constitution, Art. XI-E.

26 The Correctional Services Article Review Committee notes, for
27 consideration by the General Assembly, that there are currently no local
28 correctional facilities operated by a municipal corporation but that this
29 could conceivably change in the future.

30 Also in subsection (b) of this section, the former phrase "in like manner" is
31 deleted as surplusage.

32 Defined terms: "Commissioner of Correction" § 1-101

33 "Correctional facility" § 1-101

34 "County" § 1-101

35 "Division of Correction" § 1-101

36 "Inmate" § 1-101

37 "Public roads" § 9-501

1 9-509. ASSIGNMENT OF INMATES BY GOVERNOR -- STATE HIGHWAY
2 ADMINISTRATION.

3 (A) IN GENERAL.

4 ON RECEIPT OF A CERTIFICATION REQUIRED UNDER § 9-508 OF THIS SUBTITLE,
5 THE GOVERNOR MAY ASSIGN TO THE STATE HIGHWAY ADMINISTRATION AS MANY OF
6 THE INMATES CERTIFIED TO THE GOVERNOR AS THE STATE HIGHWAY
7 ADMINISTRATION CAN PROFITABLY EMPLOY TO CONSTRUCT, REPAIR, OR MAINTAIN
8 THE PUBLIC ROADS UNDER ITS JURISDICTION.

9 (B) DUTY OF STATE HIGHWAY ADMINISTRATION TO EMPLOY INMATES.

10 THE STATE HIGHWAY ADMINISTRATION SHALL EMPLOY THE INMATES
11 ASSIGNED BY THE GOVERNOR UNDER THIS SECTION.

12 REVISOR'S NOTE: This section is new language derived without substantive
13 change from former Art. 27, § 721.

14 In subsection (a) of this section, the reference to "a certification required
15 under § 9-508 of this subtitle" is substituted for the former reference to
16 "such information" for clarity.

17 Also in subsection (a) of this section, the former phrase "from time to time"
18 is deleted as surplusage.

19 Defined terms: "Inmate" § 1-101

20 "Public roads" § 9-501

21 9-510. SAME -- LOCAL JURISDICTIONS.

22 (A) REQUESTS BY LOCAL GOVERNMENTS FOR INMATE LABOR.

23 THE GOVERNING BODY OF A COUNTY OR MUNICIPAL CORPORATION MAY
24 REQUEST THAT THE GOVERNOR FURNISH THE NUMBER OF INMATES THAT THE
25 COUNTY OR MUNICIPAL CORPORATION CAN PROFITABLY EMPLOY TO CONSTRUCT,
26 REPAIR, OR MAINTAIN THE PUBLIC ROADS UNDER ITS JURISDICTION.

27 (B) ASSIGNMENT OF INMATES BY GOVERNOR TO LOCAL GOVERNMENTS.

28 AFTER THE GOVERNOR HAS ASSIGNED INMATES TO THE STATE HIGHWAY
29 ADMINISTRATION UNDER § 9-509 OF THIS SUBTITLE, FROM THE REMAINING
30 INMATES CERTIFIED TO THE GOVERNOR UNDER § 9-508 OF THIS SUBTITLE, THE
31 GOVERNOR MAY ASSIGN THE NUMBER OF INMATES THAT THE GOVERNOR
32 CONSIDERS EQUITABLE AMONG COUNTIES AND MUNICIPAL CORPORATIONS
33 REQUESTING INMATES UNDER SUBSECTION (A) OF THIS SECTION.

34 REVISOR'S NOTE: This section is new language derived without substantive
35 change from former Art. 27, § 722.

36 In subsection (a) of this section, the reference to the "governing body of a

1 county" is substituted for the former reference to the "county
2 commissioners of any county" and the reference to "municipal corporation"
3 is substituted for the former reference to "town or city" for consistency
4 within this subtitle. See § 9-508(b) and the accompanying Revisor's Note.

5 Also in subsection (a) of this section, the former reference to the governing
6 body of a city "other than Baltimore City" is deleted in light of the
7 exclusion of Baltimore City from the application of this section under §
8 9-507(a) of this subtitle.

9 Also in subsection (a) of this section, the former phrase "from time to time"
10 is deleted as surplusage.

11 In subsection (b) of this section, the reference to counties and municipal
12 corporations "requesting inmates under subsection (a) of this section" is
13 substituted for the former reference to counties and cities "so applying as
14 aforesaid" for clarity.

15 Also in subsection (b) of this section, the former reference to assignment
16 "for work upon the public roads and streets thereof" is deleted as
17 unnecessary in light of the cross-reference to subsection (a) of this section.

18 Defined terms: "County" § 1-101

19 "Inmate" § 1-101

20 "Public roads" § 9-501

21 9-511. INMATES ASSIGNED TO ROAD WORK BY GOVERNOR -- DUTY TO GUARD,
22 TRANSPORT, AND PROVIDE CARE.

23 (A) IN GENERAL.

24 THE DIVISION OF CORRECTION SHALL PROVIDE, OR MAKE ARRANGEMENTS
25 THAT IT CONSIDERS TO BE ADEQUATE AND PROPER TO PROVIDE, FOR THE
26 GUARDING, TRANSPORTING, LODGING, FEEDING, CLOTHING, AND MEDICAL AND
27 OTHER CARE OF INMATES WHILE THE INMATES ARE WORKING ON PUBLIC ROADS
28 UNDER §§ 9-508 THROUGH 9-514 OF THIS SUBTITLE.

29 (B) REGULATIONS.

30 THE DIVISION OF CORRECTION MAY ADOPT REGULATIONS AS NECESSARY TO
31 CARRY OUT §§ 9-508 THROUGH 9-514 OF THIS SUBTITLE.

32 (C) PAYMENT OF EXPENSES.

33 (1) FOR INMATES ASSIGNED TO THE STATE HIGHWAY ADMINISTRATION
34 UNDER § 9-509 OF THIS SUBTITLE, THE STATE SHALL PAY THE EXPENSES INCURRED
35 UNDER SUBSECTION (A) OF THIS SECTION.

36 (2) FOR INMATES ASSIGNED TO A MUNICIPAL CORPORATION OR
37 COUNTY UNDER § 9-510 OF THIS SUBTITLE, THE MUNICIPAL CORPORATION OR

1 COUNTY SHALL PAY THE EXPENSES INCURRED UNDER SUBSECTION (A) OF THIS
2 SECTION UNDER ARRANGEMENTS MADE WITH, OR SATISFACTORY TO, THE DIVISION
3 OF CORRECTION.

4 REVISOR'S NOTE: This section is new language derived without substantive
5 change from former Art. 27, § 723.

6 In subsection (a) of this section, the former reference to medical "attention"
7 of inmates is deleted as unnecessary in light of the comprehensive
8 reference to "medical and other care".

9 In subsection (b) of this section, the former reference to "rules" and
10 regulations is deleted for consistency throughout this article. See General
11 Revisor's Note to this article.

12 Also in subsection (b) of this section, the former reference to regulations
13 that are "proper" is deleted as unnecessary in light of Title 10, Subtitle 1 of
14 the State Government Article, which sets forth comprehensive rules
15 governing the adoption of regulations.

16 In subsection (c)(2) of this section, the former reference to inmates
17 assigned to a municipal corporation or county "at its request" is deleted as
18 unnecessary in light of the reference to § 9-510 of this subtitle, which
19 authorizes the Governor to assign inmates to a county or municipal
20 corporation only after receiving a request for the assignment.

21 Defined terms: "County" § 1-101

22 "Division of Correction" § 1-101

23 "Inmate" § 1-101

24 "Public roads" § 9-501

25 9-512. DAILY PAYMENTS TO DIVISION; DISPOSITION.

26 (A) IN GENERAL.

27 FOR EACH INMATE ASSIGNED TO AND EMPLOYED BY THE STATE HIGHWAY
28 ADMINISTRATION OR A COUNTY OR MUNICIPAL CORPORATION, RESPECTIVELY,
29 UNDER § 9-509 OR § 9-511 OF THIS SUBTITLE, THE STATE HIGHWAY ADMINISTRATION,
30 COUNTY, OR MUNICIPAL CORPORATION SHALL PAY TO THE DIVISION OF
31 CORRECTION THE DAILY SUM AGREED ON WITH THE DIVISION OF CORRECTION FOR
32 EACH DAY THAT THE INMATE IS EMPLOYED.

33 (B) PAYMENTS CREDITED TO INMATES; PAYMENTS TO DEPENDENTS.

34 (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,
35 FROM THE PAYMENTS MADE UNDER SUBSECTION (A) OF THIS SECTION, THE
36 DIVISION OF CORRECTION:

1 (I) SHALL HOLD AN AMOUNT, AS DETERMINED BY THE DIVISION,
 2 TO THE CREDIT OF THE INMATE ON WHOSE ACCOUNT THE PAYMENTS WERE MADE;
 3 AND

4 (II) ON RELEASE OR DISCHARGE OF THE INMATE, SHALL PAY TO
 5 THE INMATE THOSE PAYMENTS HELD BY THE DIVISION TO THE CREDIT OF THE
 6 INMATE.

7 (2) IF THE DIVISION OF CORRECTION FINDS THAT THE WIFE, CHILD, OR
 8 OTHER DEPENDENT OF AN INMATE NEEDS FINANCIAL SUPPORT, THE DIVISION MAY
 9 PAY ALL OR PART OF THE PAYMENTS MADE UNDER SUBSECTION (A) OF THIS
 10 SECTION, AS THE DIVISION CONSIDERS PROPER, TO THE DEPENDENT.

11 (C) REGULATIONS.

12 THE DIVISION OF CORRECTION MAY ADOPT REGULATIONS AS NECESSARY TO
 13 GOVERN THE COLLECTION AND DISBURSEMENT OF PAYMENTS MADE UNDER THIS
 14 SECTION.

15 REVISOR'S NOTE: This section is new language derived without substantive
 16 change from former Art. 27, § 724.

17 In subsection (a) of this section, the reference to a "municipal corporation"
 18 is substituted for the former reference to a "city or town" for consistency
 19 with Md. Constitution, Art. XI-E.

20 In subsection (b)(2) of this section, the reference to "all or part" of the
 21 payments is substituted for the former reference to "such portion" of the
 22 payments to state expressly that which was only implied in the former law.

23 Also in subsection (b)(2) of this section, the former phrase "in its
 24 discretion" is deleted as implied in the reference to "may", which indicates
 25 discretionary authority.

26 Also in subsection (b)(2) of this section, the former phrase "from time to
 27 time" is deleted as surplusage.

28 Also in subsection (b)(2) of this section, the former reference to a
 29 requirement that the Division "hold the balance of such payments to the
 30 credit of the prisoner" is deleted as unnecessary in light of subsection (b)(1)
 31 of this section.

32 The Correctional Services Article Review Committee notes, for
 33 consideration by the General Assembly, that subsection (b) of this section
 34 sets forth rules governing the disposition of an inmate's earnings. The
 35 Committee further notes that there are significant inconsistencies
 36 throughout this article in statutory provisions governing the disposition of
 37 an inmate's earnings in different contexts. See, e.g., §§ 3-804, 3-807(e)(1),
 38 9-504(d), 11-319(b), 11-407(b), 11-604, 11-703(d)(4), 11-704(d), 11-705(i),
 39 11-706(b)(5), 11-708(b)(7), 11-711(g), 11-712(c)(5), 11-714(c)(4), 11-715(e),

1 11-716(g), 11-717(e), 11-718(e), 11-719(b), 11-722(b), 11-724(g), and
2 11-725(b) of this article and accompanying Revisor's Notes. The General
3 Assembly may wish to examine all of the relevant provisions and
4 determine whether they should be changed to reflect a more consistent
5 policy in this area.

6 In subsection (c) of this section, the former reference to "rules" and
7 regulations is deleted for consistency throughout this article. See General
8 Revisor's Note to this article.

9 Also in subsection (c) of this section, the former reference to regulations
10 that are "proper" is deleted as unnecessary in light of Title 10, Subtitle 1 of
11 the State Government Article, which sets forth comprehensive rules
12 governing the adoption of regulations.

13 Defined terms: "County" § 1-101

14 "Division of Correction" § 1-101

15 "Inmate" § 1-101

16 9-513. DEDUCTIONS AND ALLOWANCES FOR GOOD BEHAVIOR, FORFEITURES, AND
17 PUNISHMENT.

18 AN INMATE WORKING ON PUBLIC ROADS UNDER §§ 9-508 THROUGH 9-514 OF
19 THIS SUBTITLE IS ENTITLED TO THE SAME DEDUCTIONS OR ALLOWANCES FOR GOOD
20 BEHAVIOR, OBSERVANCE OF DISCIPLINE AND RULES, AND DILIGENT AND FAITHFUL
21 LABOR, AND IS SUBJECT TO THE SAME FORFEITURES OR PUNISHMENTS FOR BAD
22 BEHAVIOR AND OTHER VIOLATIONS THAT OTHERWISE APPLY TO INMATES UNDER
23 THE LAWS OF THE STATE.

24 REVISOR'S NOTE: This section is new language derived without substantive
25 change from former Art. 27, § 725.

26 The reference to forfeitures or punishments for "bad behavior and other
27 violations" is substituted for the former reference to forfeitures and
28 punishments for "the lack or violation thereof" to state expressly that
29 which was only implied in the former law. See also § 9-506 of this subtitle
30 and accompanying Revisor's Note.

31 Defined terms: "Inmate" § 1-101

32 "Public roads" § 9-501

33 9-514. APPROPRIATIONS AND PAYMENTS FOR EXPENSES.

34 (A) STATE EXPENDITURES.

35 (1) ALL EXPENSES INCURRED AND DISBURSEMENTS MADE BY THE
36 DIVISION OF CORRECTION UNDER § 9-511 OF THIS SUBTITLE FOR THE GUARDING,
37 TRANSPORTING, LODGING, FEEDING, CLOTHING, AND MEDICAL AND OTHER CARE OF
38 INMATES WORKING UNDER §§ 9-508 THROUGH 9-513 OF THIS SUBTITLE FOR THE
39 STATE HIGHWAY ADMINISTRATION SHALL BE PAID OUT OF MONEY IN THE TREASURY

1 THAT HAS NOT BEEN OTHERWISE APPROPRIATED AND IS AVAILABLE FOR THOSE
2 PURPOSES OR, SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, OUT OF MONEY
3 APPROPRIATED FOR THOSE PURPOSES.

4 (2) (I) THE DIVISION OF CORRECTION MAY NOT PAY THE EXPENSES
5 SPECIFIED IN PARAGRAPH (1) OF THIS SUBSECTION OUT OF MONEY APPROPRIATED
6 FOR THOSE PURPOSES UNLESS THE GOVERNOR APPROVES THE PAYMENT AND
7 ORDERS THE COMPTROLLER TO MAKE THE PAYMENT.

8 (II) THE COMPTROLLER SHALL DRAW A WARRANT ON THE
9 TREASURY, AS OTHERWISE PROVIDED BY LAW, FOR THE AMOUNT ORDERED BY THE
10 GOVERNOR.

11 (B) LOCAL EXPENDITURES.

12 A COUNTY OR MUNICIPAL CORPORATION TO WHICH INMATES HAVE BEEN
13 ASSIGNED UNDER § 9-510 OF THIS SUBTITLE MAY MAKE ANY APPROPRIATIONS,
14 ASSESSMENTS, AND LEVIES NECESSARY TO ENABLE THE COUNTY OR MUNICIPAL
15 CORPORATION TO PAY THE EXPENSES AND PAYMENTS AUTHORIZED OR REQUIRED
16 UNDER §§ 9-508 THROUGH 9-513 OF THIS SUBTITLE.

17 (C) EXPENDITURES BY THE STATE HIGHWAY ADMINISTRATION.

18 THE PAYMENTS REQUIRED TO BE MADE BY THE STATE HIGHWAY
19 ADMINISTRATION UNDER § 9-512 OF THIS SUBTITLE SHALL BE PAID OUT OF THE
20 STATE HIGHWAY ADMINISTRATION'S APPROPRIATION.

21 REVISOR'S NOTE: This section is new language derived without substantive
22 change from former Art. 27, § 726.

23 In subsection (a) of this section, the former reference to "attention" of
24 inmates is deleted as unnecessary in light of the comprehensive reference
25 to "care" of inmates.

26 Also in subsection (a) of this section, the former phrase "from time to time"
27 is deleted as surplusage.

28 The Correctional Services Article Review Committee notes, for
29 consideration by the General Assembly, that the part of former Art. 27, §
30 726 that is revised in subsection (a)(1) of this section required that
31 expenses relating to guarding, transporting, lodging, feeding, clothing, and
32 otherwise caring for an inmate be "paid out of any moneys in the
33 [T]reasury available therefor and not otherwise appropriated". The
34 Committee believes that this requirement may be unconstitutional under
35 Md. Constitution, Art. III, §§ 32 and 52.

36 Under Md. Constitution, Art. III, § 52(1), the General Assembly is
37 prohibited from "appropriat[ing] any money out of the Treasury except in
38 accordance with the provisions of this section". Md. Constitution, Art. III, §
39 52(2) requires that "[e]very appropriation bill ... be either a Budget Bill, or

1 a Supplementary Appropriation Bill, as hereinafter provided". The
2 Committee believes that the requirement in subsection (a)(1) of this
3 section that expenses be paid out of money in the Treasury that has not
4 been "otherwise appropriated" may be unconstitutional because the bill
5 that originally enacted this requirement was not a Budget Bill or a
6 Supplementary Appropriation Bill. See Ch. 4, Acts of 1917.

7 Even if subsection (a)(1) of this section does not violate Md. Constitution,
8 Art. III, § 52, the Committee believes that it may violate Md. Constitution,
9 Art. III, § 32, because it places no cap on the amount of money that can be
10 drawn from the Treasury. Md. Constitution, Art. III, § 32 provides that
11 "[n]o money shall be drawn from the Treasury of the State, by any order or
12 resolution, nor except in accordance with an appropriation by Law; and
13 every such Law shall distinctly specify the sum appropriated, and the
14 object, to which it shall be applied".

15 To eliminate any question about the constitutionality of subsection (a)(1) of
16 this section, the General Assembly may wish to repeal the language that
17 allows expenses to be "paid out of money in the Treasury that has not been
18 otherwise appropriated and is available for those purposes".

19 Defined terms: "Comptroller" § 1-101

20 "County" § 1-101

21 "Division of Correction" § 1-101

22 "Inmate" § 1-101

23 9-515. EMPLOYMENT OF INMATES IN AGRICULTURAL WORK.

24 (A) SCOPE OF SECTION.

25 THIS SECTION APPLIES TO:

26 (1) INMATES OF ANY CAMP IN QUEEN ANNE'S COUNTY OR IN ANY OTHER
27 COUNTY IN WHICH SIMILAR CAMPS ARE ESTABLISHED; AND

28 (2) INMATES IN A COUNTY WITHIN A REASONABLE DISTANCE, TO BE
29 DETERMINED BY THE DIVISION OF CORRECTION, OF A CAMP DESCRIBED IN ITEM (1)
30 OF THIS SUBSECTION.

31 (B) IN GENERAL.

32 EXCEPT FOR INMATES NEEDED OR BEING UTILIZED BY THE STATE HIGHWAY
33 ADMINISTRATION FOR EMERGENCY ROAD MAINTENANCE, THE DIVISION OF
34 CORRECTION SHALL ARRANGE FOR INMATES TO BE EMPLOYED IN AGRICULTURAL
35 WORK DURING ANY PART OF THE YEAR.

36 (C) PAYMENT OF INMATES.

37 A PERSON THAT EMPLOYS INMATES IN AGRICULTURAL WORK UNDER THIS
38 SECTION SHALL:

1 (1) PAY THE REASONABLE VALUE FOR THE WORK AT THE ESTIMATED
2 PREVAILING WAGE IN THE COMMUNITY WHERE THE INMATES ARE EMPLOYED; AND

3 (2) GIVE ANY SECURITY FOR THE PAYMENTS THAT THE DIVISION OF
4 CORRECTION REQUIRES.

5 (D) SALE OF PRODUCE AUTHORIZED.

6 A PERSON THAT EMPLOYS INMATES UNDER THIS SECTION MAY SELL THE
7 PRODUCE HARVESTED BY THE INMATES.

8 (E) SUPERVISION OF WORK FORCE.

9 INMATES EMPLOYED IN AGRICULTURAL WORK UNDER THIS SECTION SHALL BE
10 UNDER THE CONTROL AND SUPERVISION OF THE DIVISION OF CORRECTION TO THE
11 SAME EXTENT AS WHEN EMPLOYED IN THE CONSTRUCTION AND MAINTENANCE OF
12 PUBLIC ROADS.

13 REVISOR'S NOTE: This section is new language derived without substantive
14 change from former Art. 27, § 722A(a).

15 In subsection (b) of this section, the former reference to road maintenance
16 "in any county of this State" is deleted as unnecessary in light of § 9-509(a)
17 of this subtitle, which refers to "public roads".

18 In subsection (c) of this section, the former phrase "in its discretion" is
19 deleted as unnecessary in light of the reference to "may", which indicates
20 discretionary authority.

21 Also in subsection (c) of this section, the former reference to security that
22 the Division may "determine" is deleted as included in the reference to
23 security that the Division "requires".

24 The Correctional Services Article Review Committee notes, for
25 consideration by the General Assembly, that the General Assembly may
26 wish to repeal this section as obsolete. Currently, there are no correctional
27 "camps" in Queen Anne's County and no inmates are being used in
28 agricultural work as authorized by this section.

29 Defined terms: "County" § 1-101

30 "Division of Correction" § 1-101

31 "Inmate" § 1-101

32 "Person" § 1-101

33 "Public roads" § 9-501

34 9-516. EMPLOYMENT OF INMATES IN CARROLL COUNTY.

35 (A) IN GENERAL.

1 THE BOARD OF COUNTY COMMISSIONERS OF CARROLL COUNTY MAY EMPLOY
2 AN INMATE WHO IS SERVING A TERM OF CONFINEMENT IN THE CARROLL COUNTY
3 DETENTION CENTER TO PERFORM ANY PUBLIC SERVICE THAT CARROLL COUNTY
4 ROUTINELY PROVIDES TO THE CITIZENS OF THE COUNTY.

5 (B) REGULATIONS.

6 THE SHERIFF OF CARROLL COUNTY, IN CONSULTATION WITH AND ON THE
7 APPROVAL OF THE BOARD OF COUNTY COMMISSIONERS OF CARROLL COUNTY,
8 SHALL ADOPT REGULATIONS GOVERNING THE INMATE EMPLOYMENT PROGRAM
9 AUTHORIZED UNDER THIS SECTION, INCLUDING SUPERVISION OF INMATES AND
10 SECURITY OF THE PUBLIC AND THE DETENTION CENTER.

11 (C) REDUCTION IN SENTENCE.

12 FOR EACH CALENDAR MONTH DURING WHICH AN INMATE SHOWS
13 SATISFACTORY INDUSTRY, APPLICATION, AND PROGRESS IN SPECIAL SELECTED
14 WORK PROJECTS, THE INMATE MAY BE ALLOWED A DEDUCTION OF NOT MORE THAN
15 5 DAYS OF THE INMATE'S TERM OF CONFINEMENT.

16 (D) WAGES; REIMBURSEMENT OF COSTS.

17 THE BOARD OF COUNTY COMMISSIONERS OF CARROLL COUNTY MAY:

18 (1) AUTHORIZE PAYMENT TO INMATES EMPLOYED AS PROVIDED UNDER
19 THIS SECTION BASED ON THE NORMAL RATE OF PAY FOR THE JOB PERFORMED; AND

20 (2) DEDUCT FROM PAYMENTS TO INMATES THE COSTS OF PROVIDING
21 THE EMPLOYMENT, TRAINING, AND CONFINEMENT.

22 REVISOR'S NOTE: This section is new language derived without substantive
23 change from former Art. 27, § 712A.

24 In subsection (a) of this section, the reference to an inmate who "is serving
25 a term of confinement" in the Carroll County Detention Center is
26 substituted for the former reference to an inmate who "has been sentenced
27 to a term of imprisonment and is confined" in the Carroll County
28 Detention Center for brevity and consistency throughout this article. See
29 General Revisor's Note to this article.

30 Also in subsection (a) of this section, the reference to services "routinely"
31 provided is substituted for the former reference to services provided "as a
32 matter of course" for brevity.

33 In subsections (b) and (d) of this section, the references to the "Board of"
34 County Commissioners are added for consistency with subsection (a) of
35 this section.

36 In subsection (b) of this section, the former reference to "rules" and
37 regulations is deleted for consistency throughout this article. See General

1 Revisor's Note to this article.

2 Also in subsection (b) of this section, the reference to the "Detention
3 Center" is substituted for the former reference to the "detention facility"
4 for consistency with subsection (a) of this section.

5 Also in subsection (b) of this section, the reference to the "inmate
6 employment" program is added for clarity.

7 Also in subsection (b) of this section, the former reference to regulations
8 governing the "conduct of" the inmate employment program is deleted as
9 implied in the reference to regulations governing the "inmate employment
10 program".

11 In subsection (c) of this section, the reference to an inmate's "term of
12 confinement" is substituted for the former reference to an inmate's "period
13 of commitment or sentence" for consistency throughout this article. See
14 General Revisor's Note to this article.

15 Defined term: "Inmate" § 1-101

16 9-517. MAINTENANCE OF PARKS AND PUBLIC AREAS BY INMATES -- SOMERSET
17 COUNTY.

18 (A) IN GENERAL.

19 AT THE REQUEST OF THE BOARD OF COUNTY COMMISSIONERS OF SOMERSET
20 COUNTY OR THE MAYOR AND CITY COUNCIL OF A MUNICIPAL CORPORATION IN
21 SOMERSET COUNTY, THE DIVISION OF CORRECTION SHALL SUPPLY INMATES, IF
22 REASONABLY AVAILABLE, TO WORK ON PROJECTS TO DEVELOP, IMPROVE, AND
23 MAINTAIN PUBLIC AREAS, PARKS, AND RECREATION AREAS IN THE COUNTY OR
24 MUNICIPAL CORPORATION.

25 (B) APPLICABILITY OF OTHER PROVISIONS OF LAW.

26 THE OTHER PROVISIONS OF THIS SUBTITLE APPLY TO EMPLOYMENT OF
27 INMATES UNDER THIS SECTION.

28 REVISOR'S NOTE: This section is new language derived without substantive
29 change from former Art. 27, § 722A(b).

30 Defined terms: "Division of Correction" § 1-101

31 "Inmate" § 1-101

32 9-518. CITY OF FREDERICK -- ASSIGNMENT OF CERTAIN OFFENDERS TO ROAD
33 WORK.

34 (A) SCOPE OF SECTION.

35 THIS SECTION APPLIES ONLY IN THE CITY OF FREDERICK.

1 (B) ASSIGNMENT TO ROAD WORK BY DISTRICT COURT.

2 A DISTRICT COURT JUDGE WHO TRIES AND COMMITS A VAGRANT OR OTHER
3 OFFENDER OF A MUNICIPAL LAW OR ORDINANCE, WHENEVER PRACTICABLE, SHALL
4 ASSIGN THE OFFENDER TO WORK ON THE PUBLIC ROADS OF THE COUNTY OR CITY
5 OF FREDERICK.

6 (C) CUSTODIAN OF OFFENDER TO COMPLY WITH COURT ORDER.

7 THE SHERIFF OR OTHER OFFICER INTO WHOSE CUSTODY AN OFFENDER IS
8 COMMITTED UNDER THIS SECTION SHALL COMPLY WITH THE COURT'S ORDER OF
9 ASSIGNMENT.

10 (D) GUARDING OF OFFENDERS WORKING ON PUBLIC ROADS.

11 (1) AN OFFENDER ORDERED BY THE COURT TO WORK ON THE PUBLIC
12 ROADS OF THE CITY SHALL BE GUARDED BY THE SUPERINTENDENT OF STREETS OR
13 BY ANY OTHER INDIVIDUAL DEPUTIZED BY THE SHERIFF.

14 (2) AN OFFENDER ORDERED BY THE COURT TO WORK ON THE PUBLIC
15 ROADS OF THE COUNTY SHALL BE GUARDED BY THE ROAD SUPERVISOR OF THE
16 DISTRICT IN WHICH THE OFFENDER WORKS.

17 (E) SAME -- DEPUTIES TO ACT AS GUARDS.

18 FOR THE PURPOSE OF GUARDING OFFENDERS EMPLOYED IN ACCORDANCE
19 WITH A COURT ORDER ISSUED UNDER SUBSECTION (B) OF THIS SECTION, THE
20 SHERIFF MAY DEPUTIZE THE SUPERINTENDENT OF STREETS, THE DISTRICT ROAD
21 SUPERVISOR, OR ANY OTHER INDIVIDUAL TO TAKE CHARGE OF THE OFFENDERS.

22 REVISOR'S NOTE: This section is new language derived without substantive
23 change from the second clause of the second sentence of former Art. 27, §
24 720 as it related to the City of Frederick.

25 In subsection (b) of this section, the reference to "work" is substituted for
26 the former reference to "employment" for consistency with subsection (d) of
27 this section.

28 Also in subsection (b) of this section, the reference to the defined term
29 "public roads" is substituted for the former reference to "the county roads
30 or ... the streets" for consistency within this subtitle. See § 9-501 of this
31 subtitle for the definition of "public roads".

32 In subsection (d)(1) of this section, the reference to an "individual" is
33 substituted for the former reference to a "person" because only a human
34 being, and not the other types of entities included in the defined term
35 "person", can be deputized by the Sheriff. See § 1-101 of this article for the
36 definition of "person".

37 In subsection (e) of this section, the reference to the purpose of "guarding

1 offenders employed in accordance with a court order issued under
2 subsection (b) of this section" is substituted for the former reference to
3 "this" purpose for clarity. Similarly, the reference to the "superintendent of
4 streets [and] the district road supervisor" is substituted for the former
5 reference to "said officials" for clarity.

6 Defined term: "Public roads" § 9-501

7 9-519. INMATE LABOR FOR STATE PROJECTS.

8 (A) IN GENERAL.

9 SUBJECT TO SUBSECTION (B) OF THIS SECTION, AT THE REQUEST OF ANOTHER
10 UNIT OF STATE GOVERNMENT, THE DIVISION OF CORRECTION MAY PROVIDE
11 INMATES FOR LABOR ON STATE WORK PROJECTS IF THE DIVISION OF CORRECTION
12 CONSIDERS THE PLACEMENT EXPEDIENT AND PROPER.

13 (B) CONDITIONS.

14 THE DIVISION OF CORRECTION MAY PROVIDE INMATES FOR A WORK PROJECT
15 ONLY IF THE UNIT OF STATE GOVERNMENT THAT REQUESTS THE INMATES AGREES
16 TO THE TERMS AND CONDITIONS THAT THE DIVISION OF CORRECTION SPECIFIES.

17 REVISOR'S NOTE: This section is new language derived without substantive
18 change from former Art. 27, § 681L.

19 Defined terms: "Division of Correction" § 1-101

20 "Inmate" § 1-101

21 9-520. INMATES ASSIGNED TO THE DEPARTMENT OF STATE POLICE.

22 (A) ASSIGNMENT.

23 AFTER REACHING AN AGREEMENT WITH THE DEPARTMENT OF STATE POLICE
24 REGARDING THE CUSTODY, SUPERVISION, TRANSPORTATION, AND SUBSISTENCE OF
25 INMATES, THE DIVISION OF CORRECTION OR THE MANAGING OFFICIAL OF A LOCAL
26 CORRECTIONAL FACILITY MAY ASSIGN INMATES WHO HAVE BEEN SENTENCED TO
27 IMPRISONMENT TO PERFORM LABOR OR PROVIDE SERVICES IN AND ABOUT THE
28 FACILITIES OF THE DEPARTMENT OF STATE POLICE.

29 (B) ESCAPE.

30 AN INMATE WHO ESCAPES WHILE ASSIGNED TO PERFORM LABOR OR PROVIDE
31 SERVICES UNDER THIS SECTION IS GUILTY OF ESCAPE UNDER ARTICLE 27, § 139 OF
32 THE CODE.

33 REVISOR'S NOTE: This section is new language derived without substantive
34 change from former Art. 88B, § 26.

35 In subsection (a) of this section, the reference to the Department "of State
36 Police" is added to reflect the definition of "Department" in Art. 88B, § 2.

1 Also in subsection (a) of this section, the reference to inmates who have
2 been "sentenced to imprisonment" is substituted for the former reference
3 to inmates who are "under sentence" for clarity.

4 The Correctional Services Article Review Committee notes, for
5 consideration by the General Assembly, that subsection (b) of this section is
6 one of many provisions in this article that relates to inmates who escape
7 while legitimately outside the confines of a correctional facility (e.g., while
8 on work release, home detention, pretrial release, weekend leave,
9 compassionate leave, family leave, etc.). For a discussion of the
10 Committee's perspective on these provisions, see § 3-305(c) of this article
11 and accompanying Revisor's Note.

12 Defined terms: "Division of Correction" § 1-101

13 "Inmate" § 1-101

14 "Local correctional facility" § 1-101

15 "Managing official" § 1-101

16 GENERAL REVISOR'S NOTE TO SUBTITLE:

17 The Correctional Services Article Review Committee notes, for
18 consideration by the General Assembly, that many aspects of §§ 9-503
19 through 9-506 of this subtitle are duplicative of §§ 9-507 through 9-514 of
20 this subtitle. There is no clear reason for this duplication.

21 The source law for §§ 9-503 through 9-506, former Art. 27, §§ 712 through
22 718, was enacted by Ch. 211, Acts of 1916. The source law for §§ 9-507
23 through 9-514, former Art. 27, §§ 719 through 726, was enacted as an
24 emergency measure by Ch. 4, Acts of 1917 (Special Session). The provisions
25 of former Art. 27, §§ 719 through 726 stood alone and were not intertwined
26 with the provisions of former Art. 27, §§ 712 through 718. All of these
27 former provisions remained largely unchanged after their original
28 enactment.

29 In light of the Committee's uncertainty as to the purpose of the
30 overlapping aspects of this subtitle and the age of the underlying source
31 law for this subtitle, the General Assembly may wish to examine the
32 provisions of this subtitle and determine whether the current inmate work
33 force system should be modified or eliminated.

34 SUBTITLE 6. MISCELLANEOUS.

35 9-601. PREGNANT INMATES.

36 (A) IN GENERAL.

37 IF A REPRESENTATION IS MADE TO THE MANAGING OFFICIAL OF A
38 CORRECTIONAL FACILITY IN THE DIVISION OF CORRECTION THAT AN INMATE IN
39 THE CORRECTIONAL FACILITY IS PREGNANT AND ABOUT TO GIVE BIRTH, THE
40 MANAGING OFFICIAL:

1 (1) A REASONABLE TIME BEFORE THE ANTICIPATED BIRTH, SHALL
2 MAKE AN INVESTIGATION; AND

3 (2) IF THE FACTS REQUIRE, SHALL RECOMMEND THROUGH THE
4 DIVISION OF CORRECTION THAT THE GOVERNOR EXERCISE EXECUTIVE CLEMENCY.

5 (B) AUTHORITY OF GOVERNOR.

6 WITHOUT NOTICE, THE GOVERNOR MAY:

7 (1) PAROLE THE INMATE;

8 (2) COMMUTE THE INMATE'S SENTENCE; OR

9 (3) SUSPEND THE EXECUTION OF THE INMATE'S SENTENCE FOR A
10 DEFINITE PERIOD OR FROM TIME TO TIME.

11 (C) REMOVAL FROM CORRECTIONAL FACILITY.

12 IF THE GOVERNOR SUSPENDS THE EXECUTION OF AN INMATE'S SENTENCE,
13 THE MANAGING OFFICIAL OF THE CORRECTIONAL FACILITY:

14 (1) A REASONABLE TIME BEFORE THE ANTICIPATED BIRTH, SHALL
15 HAVE THE INMATE TRANSFERRED FROM THE CORRECTIONAL FACILITY TO ANOTHER
16 FACILITY THAT PROVIDES COMFORTABLE ACCOMMODATIONS, MAINTENANCE, AND
17 MEDICAL CARE UNDER SUPERVISION AND SAFEGUARDS THAT THE MANAGING
18 OFFICIAL DETERMINES NECESSARY TO PREVENT THE INMATE'S ESCAPE FROM
19 CUSTODY; AND

20 (2) SHALL REQUIRE THE INMATE TO BE RETURNED TO THE
21 CORRECTIONAL FACILITY AS SOON AFTER GIVING BIRTH AS THE INMATE'S HEALTH
22 ALLOWS.

23 (D) PAYMENT OF MEDICAL EXPENSES.

24 (1) THE EXPENSES OF AN INMATE'S ACCOMMODATION, MAINTENANCE,
25 AND MEDICAL CARE INCURRED AS A RESULT OF THE INMATE'S TRANSFER UNDER
26 SUBSECTION (C)(1) OF THIS SECTION SHALL BE PAID:

27 (I) BY THE INMATE;

28 (II) BY RELATIVES OR FRIENDS OF THE INMATE; OR

29 (III) FROM ANY AVAILABLE FUND THAT MAY BE USED TO PAY THE
30 HOSPITAL EXPENSES OF AN INMATE IN THE CORRECTIONAL FACILITY.

31 (2) IF MONEY IS NOT AVAILABLE UNDER ANY OF THE SOURCES
32 IDENTIFIED IN PARAGRAPH (1) OF THIS SUBSECTION TO PAY THE SPECIFIED
33 EXPENSES:

1 (I) THE COUNTY FROM WHICH THE INMATE WAS COMMITTED IS
2 RESPONSIBLE FOR PAYMENT OF THE EXPENSES; AND

3 (II) THE MANAGING OFFICIAL OF THE CORRECTIONAL FACILITY TO
4 WHICH THE INMATE WAS COMMITTED SHALL COLLECT PAYMENT IN ACCORDANCE
5 WITH TITLE 16 OF THE HEALTH - GENERAL ARTICLE.

6 (E) DISPOSITION OF CHILD.

7 (1) AFTER RECEIVING PROOF FROM THE FATHER OR OTHER RELATIVE
8 OF THE CHILD OF THE ABILITY TO PROPERLY CARE FOR THE CHILD, THE DIVISION
9 OF CORRECTION MAY ORDER THAT THE FATHER OR OTHER RELATIVE TAKE
10 CUSTODY OF THE CHILD.

11 (2) THE FATHER OR OTHER RELATIVE OF THE CHILD THAT RECEIVES
12 CUSTODY UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL MAINTAIN AND CARE
13 FOR THE CHILD AT THE FATHER'S OR OTHER RELATIVE'S EXPENSE UNTIL THE
14 INMATE IS RELEASED FROM THE CORRECTIONAL FACILITY OR THE CHILD, AS
15 PROVIDED BY LAW, IS ADOPTED.

16 (3) IF THE FATHER OR OTHER RELATIVE OF THE CHILD IS UNABLE TO
17 PROPERLY MAINTAIN AND CARE FOR THE CHILD, THE DIVISION OF CORRECTION
18 SHALL PLACE THE CHILD IN THE CARE OF THE DEPARTMENT OF HUMAN
19 RESOURCES.

20 REVISOR'S NOTE: This section is new language derived without substantive
21 change from former Art. 27, § 699.

22 The Correctional Services Article Review Committee notes, for
23 consideration by the General Assembly, that this section does not apply to
24 inmates in the Patuxent Institution, the Baltimore City Detention Center,
25 or local correctional facilities. The General Assembly may wish to make
26 this section applicable to such inmates or establish separate procedures
27 relating to the handling of pregnant inmates in those facilities.

28 Throughout this section, the defined term "inmate" is substituted each
29 time for the former reference to "woman" for consistency within this
30 section and throughout this article and because only women become
31 pregnant and give birth.

32 In subsections (a) and (c) of this section, the former references to the birth
33 of "a child" and "such child" are deleted as implicit in the references to a
34 "birth".

35 In subsections (a)(2) and (e)(1) and (3) of this section, the references to the
36 "Division" of Correction are substituted for the former references to the
37 "Department" of Correction to reflect Ch. 401, Acts of 1970, which created
38 the Department of Public Safety and Correctional Services and renamed
39 the Department of Correction to be the Division of Correction.

1 In subsection (b)(3) of this section, the former reference to suspending a
2 sentence "as [the Governor] deems proper" is deleted as unnecessary in
3 light of the reference to "may", which indicates discretionary authority.

4 The Correctional Services Article Review Committee notes, for
5 consideration by the General Assembly, that subsection (b)(3) of this
6 section gives the Governor authority to suspend the execution of an
7 inmate's sentence without first giving notice to the public as required by
8 Md. Constitution, Art. II, § 20 for reprieves and pardons. The Committee
9 believes that the suspension of the execution of a sentence is a "reprieve"
10 within the meaning of Md. Constitution, Art. II, § 20 and is unclear as to
11 whether the General Assembly has the power to authorize the Governor to
12 grant a reprieve without first giving the required notice. The Committee
13 believes that the General Assembly may have the power to do so under Md.
14 Constitution, Art. III, § 60, which gives the General Assembly power to
15 "provide by general enactment ... for the suspension of sentence by the
16 Court in criminal cases". However, the General Assembly may wish to
17 consider, as a matter of policy, whether the Governor should be required to
18 give the notice specified in Md. Constitution, Art. II, § 20 before
19 suspending a sentence under subsection (b)(3) of this section.

20 In subsection (d)(2)(i) of this section, the former reference to a "city, or
21 town" is deleted as unnecessary in light of the reference to the defined
22 term "county", which includes Baltimore City.

23 In subsection (e) of this section, the reference to other relative "of the child"
24 is added each time for clarity.

25 The Correctional Services Article Review Committee notes, for
26 consideration by the General Assembly, that subsection (e)(1) of this
27 section authorizes the Division of Correction to order a father or other
28 relative to take custody of a child born to an inmate. If the Division of
29 Correction decides to place a child in the custody of a father or other
30 relative, subsection (e)(2) of this section requires the father or relative to
31 care for the child until the mother is released from the correctional facility
32 or the child is adopted. In essence, these provisions give the Division of
33 Correction authority to make a child custody decision and suggest that
34 custody of the child automatically reverts back to the mother upon her
35 release from confinement. The Committee believes that it is inappropriate
36 to give the Division of Correction authority to make a child custody
37 decision and equally inappropriate to require that custody of a child
38 automatically revert back to the mother upon her release from
39 confinement. The Committee believes that a better policy would require
40 that the mother arrange for custody of the child and, in situations in which
41 the mother is unable to do so, that the Division of Correction place the
42 child in the care of the Department of Human Resources.

43 Defined terms: "Correctional facility" § 1-101

44 "County" § 1-101

1 "Division of Correction" § 1-101

2 "Inmate" § 1-101

3 "Managing official" § 1-101

4 9-602. SAME -- SICK INMATES.

5 (A) IN GENERAL.

6 WHENEVER THE DIVISION OF CORRECTION DETERMINES THAT AN INMATE IN A
7 CORRECTIONAL FACILITY IN THE DIVISION IS ILL AND THE FACILITIES OF THE
8 CORRECTIONAL FACILITY ARE INADEQUATE TO PROVIDE TREATMENT FOR THE
9 ILLNESS, THE DIVISION MAY DIRECT THE MANAGING OFFICIAL OF THE
10 CORRECTIONAL FACILITY TO ORDER THE TEMPORARY REMOVAL OF THE INMATE
11 FROM THE CORRECTIONAL FACILITY TO A FACILITY IN THE STATE IN WHICH THE
12 INMATE MAY RECEIVE ADEQUATE TREATMENT.

13 (B) TIME PERIOD OF REMOVAL.

14 THE DIVISION OF CORRECTION MAY DIRECT THE TEMPORARY REMOVAL OF AN
15 INMATE FROM A CORRECTIONAL FACILITY UNDER SUBSECTION (A) OF THIS SECTION
16 FOR A SPECIFIED OR UNSPECIFIED TIME PERIOD.

17 (C) REQUIREMENTS.

18 AN ORDER OF TEMPORARY REMOVAL UNDER SUBSECTION (A) OF THIS SECTION
19 SHALL:

20 (1) BE CARRIED OUT WITH CORRECTIONAL OFFICERS AND UNDER
21 SUPERVISION AND SAFEGUARDS AS NECESSARY TO PREVENT THE ESCAPE OF THE
22 INMATE; AND

23 (2) REQUIRE THE INMATE TO BE RETURNED TO A CORRECTIONAL
24 FACILITY IN THE DIVISION OF CORRECTION AS SOON AS THE INMATE'S HEALTH
25 ALLOWS.

26 (D) EFFECT ON STATUS OF INMATE.

27 DURING THE PERIOD OF THE INMATE'S TEMPORARY REMOVAL UNDER THIS
28 SECTION, AN INMATE REMAINS IN THE CUSTODY OF THE DIVISION OF CORRECTION
29 FOR THE PURPOSES OF DETERMINING:

30 (1) THE RELEASE DATE OF THE INMATE; AND

31 (2) DIMINUTION OF THE INMATE'S TERM OF CONFINEMENT IN
32 ACCORDANCE WITH §§ 3-702 THROUGH 3-704 OF THIS ARTICLE.

33 (E) ESCAPE DURING PERIOD OF REMOVAL.

34 AN INMATE WHO ESCAPES WHILE TEMPORARILY REMOVED UNDER THIS
35 SECTION IS GUILTY OF ESCAPE AND SUBJECT TO THE PENALTIES ESTABLISHED
36 UNDER ARTICLE 27, § 139 OF THE CODE.

1 (F) REIMBURSEMENT FOR EXPENSES.

2 (1) THE EXPENSES OF AN INMATE'S ACCOMMODATION, MAINTENANCE,
3 AND MEDICAL CARE INCURRED AS A RESULT OF THE INMATE'S TEMPORARY
4 REMOVAL UNDER THIS SECTION SHALL BE PAID:

5 (I) BY THE INMATE;

6 (II) BY RELATIVES OR FRIENDS OF THE INMATE; OR

7 (III) FROM ANY AVAILABLE FUND THAT MAY BE USED TO PAY THE
8 HOSPITAL EXPENSES OF AN INMATE IN THE CORRECTIONAL FACILITY.

9 (2) IF MONEY IS NOT AVAILABLE UNDER ANY OF THE SOURCES
10 IDENTIFIED IN PARAGRAPH (1) OF THIS SUBSECTION TO PAY THE SPECIFIED
11 EXPENSES:

12 (I) THE COUNTY FROM WHICH THE INMATE WAS COMMITTED
13 SHALL BE BILLED FOR PAYMENT OF THE EXPENSES; AND

14 (II) THE MANAGING OFFICIAL OF THE CORRECTIONAL FACILITY TO
15 WHICH THE INMATE WAS COMMITTED SHALL COLLECT PAYMENT IN ACCORDANCE
16 WITH TITLE 16 OF THE HEALTH - GENERAL ARTICLE.

17 (G) REGULATIONS.

18 THE TEMPORARY REMOVAL OF AN INMATE FROM A CORRECTIONAL FACILITY
19 UNDER THIS SECTION IS SUBJECT TO ANY REGULATIONS ADOPTED BY THE DIVISION
20 OF CORRECTION REGARDING CORRECTIONAL OFFICERS, SUPERVISION, AND TERMS
21 OF TEMPORARY REMOVAL.

22 REVISOR'S NOTE: This section is new language derived without substantive
23 change from former Art. 27, § 698.

24 Throughout this section, the references to the "Division" of Correction are
25 substituted for the former references to the "Department" of Correction to
26 reflect Ch. 401, Acts of 1970, which created the Department of Public
27 Safety and Correctional Services and renamed the Department of
28 Correction to be the Division of Correction.

29 In subsection (a) of this section, the reference to the Division of Correction
30 making a "determin[ation]" is substituted for the former reference to the
31 Division taking certain action when "it appears" for clarity.

32 Also in subsection (a) of this section, the reference to a correctional facility
33 "in the Division" is substituted for the former reference to a correctional
34 facility "under its control" for consistency within this article. See General
35 Revisor's Note to this article.

36 Also in subsection (a) of this section, the reference to the removal of an

- 1 inmate to a "facility" in the State is substituted for the former reference to
2 the removal of an inmate to "any place" in the State to state expressly that
3 which was only implied in the former law.
- 4 In subsection (b) of this section, the former reference to "a place where
5 adequate treatment for the illness of the prisoner may be obtained" is
6 deleted as unnecessary in light of the reference to "subsection (a) of this
7 section".
- 8 In subsection (c) of this section, the former reference to an inmate's escape
9 "from custody" is deleted as implicit in the reference to "escape".
- 10 In subsections (c)(1) and (g) of this section, the references to "correctional
11 officers" are substituted for the former references to "guards" for
12 consistency throughout this article.
- 13 In subsection (c)(1) of this section, the requirement that an inmate be
14 returned to "a correctional facility in" the Division of Correction is
15 substituted for the former requirement that an inmate be returned to "the
16 jurisdiction of" the Division of Correction for clarity.
- 17 In subsection (d)(2) of this section, the reference to a "term" of confinement
18 is substituted for the former reference to a "period" of confinement for
19 consistency throughout this article. See General Revisor's Note to this
20 article.
- 21 In subsection (e) of this section, the reference to an inmate who "is" guilty
22 of escape is substituted for the former reference to an inmate who is
23 "deemed" guilty of escape to state expressly that which was only implied in
24 the former law.
- 25 The Correctional Services Article Review Committee notes, for
26 consideration by the General Assembly, that subsection (e) of this section is
27 one of many provisions in this article that relates to inmates who escape
28 while legitimately outside the confines of a correctional facility (e.g., while
29 on work release, home detention, pretrial release, weekend leave,
30 compassionate leave, family leave, etc.). For a discussion of the
31 Committee's perspective on these provisions, see § 3-305(c) of this article
32 and accompanying Revisor's Note.
- 33 In subsection (f) of this section, the former reference to a temporary
34 removal that "has been authorized" is deleted as implicit in the reference
35 to a temporary removal "under this section".
- 36 In subsection (g) of this section, the reference to a "removal" is substituted
37 for the former reference to a "release" for consistency within this section.
- 38 Also in subsection (g) of this section, the former reference to "rules" and
39 regulations is deleted for consistency throughout this article. See General
40 Revisor's Note to this article.

1 Defined terms: "Correctional facility" § 1-101

2 "County" § 1-101

3 "Division of Correction" § 1-101

4 "Inmate" § 1-101

5 "Managing official" § 1-101

6 9-603. METHADONE DETOXIFICATION PROGRAM.

7 (A) IN GENERAL.

8 AN INMATE IN A STATE OR LOCAL CORRECTIONAL FACILITY SHALL BE PLACED
9 ON A PROPERLY SUPERVISED PROGRAM OF METHADONE DETOXIFICATION IF:

10 (1) A PHYSICIAN DETERMINES THAT THE INMATE IS AN ADDICT;

11 (2) THE TREATMENT IS PRESCRIBED BY A PHYSICIAN; AND

12 (3) THE INMATE CONSENTS IN WRITING TO THE TREATMENT.

13 (B) PROCEDURES AND STANDARDS IN DETERMINING DRUG ADDICTION AND
14 TREATMENT.

15 THE PROCEDURES AND STANDARDS USED TO DETERMINE DRUG ADDICTION
16 AND TREATMENT OF ADDICTED INMATES ARE SUBJECT TO THE GUIDELINES AND
17 REGULATIONS ADOPTED BY THE ALCOHOL AND DRUG ABUSE ADMINISTRATION IN
18 THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE.

19 (C) FUNDING.

20 THE STATE SHALL FUND THE PROGRAM OF METHADONE DETOXIFICATION.

21 REVISOR'S NOTE: This section is new language derived without substantive
22 change from former Art. 27, § 700F.

23 In subsection (b) of this section, the reference to "the Department of Health
24 and Mental Hygiene" is added for clarity.

25 Also in subsection (b) of this section, the reference to guidelines and
26 regulations that are "adopted" is substituted for the former reference to
27 those "set forth" for consistency with terminology throughout this article.
28 See General Revisor's Note to this article.

29 In subsection (c) of this section, the reference to the program "of
30 methadone detoxification" is added to state expressly that which was only
31 implied in the former reference to "program".

32 Defined terms: "Inmate" § 1-101

33 "Local correctional facility" § 1-101

34 "State correctional facility" § 1-101

1 9-604. PAYMENT OF BURIAL AND FUNERAL EXPENSES OF INDIGENT INMATES.

2 (A) IN GENERAL.

3 SUBJECT TO SUBSECTIONS (C) AND (D) OF THIS SECTION, THE STATE SHALL PAY
4 THE FUNERAL AND BURIAL EXPENSES OF AN INDIGENT INMATE WHO DIES WHILE IN
5 THE CUSTODY OF A STATE CORRECTIONAL FACILITY.

6 (B) AMOUNT.

7 THE STATE SHALL PAY THE SAME AMOUNT FOR THE FUNERAL AND BURIAL
8 EXPENSES OF AN INDIGENT INMATE AS THE DEPARTMENT OF HUMAN RESOURCES
9 PAYS UNDER ARTICLE 88A, § 62A OF THE CODE.

10 (C) ELIGIBILITY REQUIREMENTS.

11 TO BE ELIGIBLE TO RECEIVE THE BENEFIT UNDER THIS SECTION, THE FAMILY
12 OF AN INDIGENT INMATE MUST BE KNOWN OR REGISTERED WITH THE DEPARTMENT
13 OF HUMAN RESOURCES.

14 (D) DISPOSITION OF UNCLAIMED BODY.

15 IF THE BODY OF AN INDIGENT INMATE IS NOT CLAIMED WITHIN 48 HOURS
16 AFTER DEATH, THE STATE ANATOMY BOARD SHALL TAKE CONTROL OF THE BODY
17 FOR FINAL DISPOSITION IN ACCORDANCE WITH § 5-406 OF THE HEALTH - GENERAL
18 ARTICLE.

19 (E) REGULATIONS.

20 THE COMMISSIONER OF CORRECTION, THE COMMISSIONER OF PRETRIAL
21 DETENTION AND SERVICES, AND THE DIRECTOR OF THE PATUXENT INSTITUTION
22 SHALL ADOPT REGULATIONS ESTABLISHING PROCEDURES TO CARRY OUT THIS
23 SECTION.

24 REVISOR'S NOTE: This section is new language derived without substantive
25 change from former Art. 27, § 698A.

26 In subsection (b) of this section, the former phrase "except that there is no
27 charge against local funds" is deleted as obsolete. Article 88A, § 62A was
28 amended by Chs. 225 and 302, Acts of 1985, to repeal the requirement that
29 one third of the cost for funeral expenses of recipients of aid to families
30 with dependent children, general public assistance, and public assistance
31 to adults be paid with local funds.

32 In subsection (d) of this section, the phrase "after death", which modifies
33 the 48 hour time period required to pass prior to the State Anatomy Board
34 taking control of the body for final disposition, is added for clarity and
35 conformity with the provisions of § 5-406 of the Health - General Article.

36 In subsection (e) of this section, the former reference to the adoption of

1 "reasonable" regulations is deleted as unnecessary in light of the
 2 comprehensive rules governing the adoption of regulations set forth under
 3 Title 10, Subtitle 1 of the State Government Article.

4 Also in subsection (e) of this section, the former reference to "rules" and
 5 regulations is deleted for consistency throughout this article. See General
 6 Revisor's Note to this article.

7 Defined terms: "Commissioner of Correction" § 1-101

8 "Correctional facility" § 1-101

9 "Division of Correction" § 1-101

10 "Inmate" § 1-101

11 "State correctional facility" § 1-101

12 9-605. LIABILITY OF ESTATE OF INMATE FOR DAMAGES AND EXPENSES.

13 (A) IN GENERAL.

14 THE ESTATE OF AN INDIVIDUAL WHO IS SENTENCED TO IMPRISONMENT IN A
 15 CORRECTIONAL FACILITY IN THE DIVISION OF CORRECTION OR IS TO BE EXECUTED
 16 IS LIABLE:

17 (1) FIRST, FOR PAYMENT OF REPARATION TO EACH PERSON INJURED BY
 18 THE INDIVIDUAL; AND

19 (2) SECOND, FOR EXPENSES INCURRED BY THE STATE TO APPREHEND,
 20 PROSECUTE, CONVICT, AND REMOVE THE INDIVIDUAL.

21 (B) DETERMINATION OF LIABILITY.

22 TO DETERMINE THE AMOUNT OF LIABILITY UNDER SUBSECTION (A) OF THIS
 23 SECTION, THE COURT IN WHICH THE INDIVIDUAL IS CONVICTED SHALL DIRECT ITS
 24 CLERK TO CERTIFY TO THE MANAGING OFFICIAL OF THE CORRECTIONAL FACILITY
 25 THE AMOUNT OF REPARATION DETERMINED BY THE COURT AND THE COSTS
 26 INCURRED BY THE STATE IN THE PROSECUTION AND CONVICTION OF THE
 27 INDIVIDUAL.

28 (C) RECORD KEEPING.

29 THE MANAGING OFFICIAL SHALL MAINTAIN A RECORD OF THE LIABILITY OF
 30 THE ESTATE OF THE INDIVIDUAL AS CERTIFIED BY THE CLERK UNDER SUBSECTION
 31 (B) OF THIS SECTION.

32 REVISOR'S NOTE: This section is new language derived without substantive
 33 change from former Art. 27, § 636.

34 In the introductory language of subsection (a) of this section, the term
 35 "individual" is substituted for the former term "person" because only a
 36 human being, and not the other types of entities included in the definition
 37 of "person", can be imprisoned or executed. See § 1-101 of this article for

1 the definition of "person".

2 Also in the introductory language of subsection (a) of this section, the
3 reference to an individual who is sentenced to "imprisonment" is
4 substituted for the former reference to an individual who is sentenced to
5 "confinement" for consistency throughout this article. See General
6 Revisor's Note to this article.

7 Also in the introductory language of subsection (a) of this section, the
8 former reference to "[t]he real and personal" estate is deleted as implicit in
9 the reference to an "estate". Similarly, the former reference to a "convicted"
10 person who is liable "to the discharge of" expenses is deleted as implicit in
11 the reference to the "liab[ility]" for expenses of an individual "who is
12 sentenced to imprisonment in a correctional facility ... or is to be executed".

13 Also in the introductory language of subsection (a) of this section, the
14 reference to a "correctional facility in the Division of Correction" is
15 substituted for the former reference to the "penitentiary" to reflect §
16 9-103(a) of this article, which provides that any statutory reference to the
17 sentencing or confinement of inmates to a specific State correctional
18 facility must be construed to mean sentencing or confinement to the
19 jurisdiction of the Division of Correction.

20 In subsection (a)(1) of this section, the former reference to "retribution"
21 and reparation is deleted for consistency with subsection (b) of this section.

22 Also in subsection (a)(1) of this section, the reference to "each person
23 injured by the individual" is substituted for the former reference to "the
24 party injured" to state expressly that which was only implied in the former
25 law.

26 In subsection (a)(2) of this section, the reference to an "individual" is
27 substituted for the former reference to a "criminal" for consistency within
28 this section.

29 In subsection (b) of this section, the reference to costs incurred "by the
30 State" is added for clarity.

31 Also in subsection (b) of this section, the former reference to "charges" is
32 deleted as included in the reference to "costs".

33 Also in subsection (b) of this section, the reference to an "individual" is
34 substituted for the former reference to an "offender" for consistency within
35 this section.

36 In subsection (c) of this section, the requirement that a managing official
37 "maintain a record of the liability of the estate of the individual" is
38 substituted for the former requirement that a managing official "enter [the
39 information] in books to be by him kept for that purpose" for clarity.

1 The Correctional Services Article Review Committee notes, for
2 consideration by the General Assembly, that this section may be
3 unconstitutional under Md. Decl. of Rights, Art. 27, which provides that
4 "[n]o conviction shall work corruption of blood or forfeiture of estate". The
5 General Assembly may wish to examine this issue. If the General
6 Assembly decides that this section does not violate the constitutional
7 prohibition against a conviction causing "corruption of blood or forfeiture of
8 estate", it may wish to transfer this section to the Estates and Trusts
9 Article.

10 Defined terms: "Correctional facility" § 1-101

11 "Division of Correction" § 1-101

12 "Managing official" § 1-101

13 "Person" § 1-101

14 9-606. MEDICAL TREATMENT FOR JUVENILE INMATES.

15 (A) SCOPE.

16 THIS SECTION APPLIES TO LOCAL CORRECTIONAL FACILITIES AND
17 CORRECTIONAL FACILITIES IN THE DIVISION OF CORRECTION.

18 (B) AUTHORIZATION BY MANAGING OFFICIAL OR DESIGNEE.

19 ON THE RECOMMENDATION OF A HEALTH CARE PROVIDER, THE MANAGING
20 OFFICIAL OF A CORRECTIONAL FACILITY OR THE MANAGING OFFICIAL'S DESIGNEE
21 MAY AUTHORIZE MEDICAL TREATMENT OF A JUVENILE INMATE IF:

22 (1) IN THE JUDGMENT OF THE MANAGING OFFICIAL OR DESIGNEE, THE
23 TREATMENT IS NECESSARY; AND

24 (2) A PARENT, GUARDIAN, OR PERSON IN LOCO PARENTIS OF THE
25 JUVENILE IS NOT AVAILABLE ON A TIMELY BASIS TO GIVE THE AUTHORIZATION.

26 (C) LIABILITY OF MANAGING OFFICIAL OR DESIGNEE.

27 A MANAGING OFFICIAL OR DESIGNEE MAY NOT BE HELD LIABLE FOR
28 AUTHORIZING MEDICALLY NECESSARY TREATMENT IN GOOD FAITH.

29 REVISOR'S NOTE: This section is new language derived without substantive
30 change from former Art. 27, § 700J.

31 Defined terms: "Correctional facility" § 1-101

32 "Division of Correction" § 1-101

33 "Inmate" § 1-101

34 "Local correctional facility" § 1-101

35 "Managing official" § 1-101

1 9-607. INVESTIGATION OF STATE CORRECTIONAL FACILITIES BY GRAND JURIES.

2 AT LEAST ONCE EACH YEAR, THE CIRCUIT COURT OF EACH COUNTY SHALL
3 CHARGE ITS GRAND JURY TO:

4 (1) INQUIRE INTO THE OPERATION AND MANAGEMENT OF EACH STATE
5 CORRECTIONAL FACILITY LOCATED IN THE COUNTY; AND

6 (2) PRESENT A REPORT OF ALL OFFENSES AND OMISSIONS OF ANY
7 INDIVIDUAL IN OR THAT RELATE TO A STATE CORRECTIONAL FACILITY.

8 REVISOR'S NOTE: This section is new language derived without substantive
9 change from former Art. 27, § 703.

10 In the introductory language of this section, the former reference to the
11 circuit court of the county "where a State correctional institution or facility
12 is located" is deleted as implicit in the requirement that the grand jury be
13 charged to "inquire into the operation and management of each State
14 correctional facility located in the county".

15 Also in the introductory language of this section, the reference to
16 "calendar" year is deleted as implicit in the normal meaning of year.

17 In item (2) of this section, the reference to offenses or omissions of an
18 "individual" is substituted for the former reference to offenses or omissions
19 of a "person" because only a human being, and not the other entities
20 included in the defined term "person", can be "in" a correctional facility.
21 See § 1-101 of this article for the definition of "person". Also the reference
22 to offenses or omissions "that relate to" a correctional facility is broad
23 enough to cover offenses by all of the entities that are included in the
24 defined term "person".

25 Defined terms: "County" § 1-101

26 "State correctional facility" § 1-101

27 9-608. VISITATION OF LOCAL CORRECTIONAL FACILITIES BY GRAND JURIES.

28 AT LEAST ONCE EACH YEAR, THE GRAND JURY IN EACH COUNTY SHALL:

29 (1) VISIT EACH LOCAL CORRECTIONAL FACILITY IN THE COUNTY;

30 (2) INQUIRE INTO THE CONDITION OF THE CORRECTIONAL FACILITY,
31 THE MANNER IN WHICH IT IS MAINTAINED, AND THE TREATMENT OF INMATES; AND

32 (3) REPORT ITS FINDINGS TO THE CIRCUIT COURT OF THE COUNTY.

33 REVISOR'S NOTE: This section is new language derived without substantive
34 change from former Art. 27, § 703 1/2.

35 In item (1) of this section, the defined term "local correctional facility" is
36 substituted for the former reference to "jail" for consistency throughout

1 this article.

2 In item (3) of this section, the reference to "circuit" court is added to state
3 expressly that which was only implied in the former reference to "court".

4 Defined terms: "Correctional facility" § 1-101

5 "County" § 1-101

6 "Inmate" § 1-101

7 "Local correctional facility" § 1-101

8 9-609. RELEASE DATE; SUNDAY OR HOLIDAY.

9 WHENEVER A DATE OF RELEASE FROM CONFINEMENT IN A STATE
10 CORRECTIONAL FACILITY IS A SUNDAY OR LEGAL HOLIDAY, THE INMATE SHALL BE
11 RELEASED ON THE PRECEDING DAY.

12 REVISOR'S NOTE: This section is new language derived without substantive
13 change from former Art. 27, § 633A.

14 The former reference to "penal institution" is deleted as included in the
15 term "correctional facility".

16 The reference to "confinement" is substituted for the former reference to
17 "imprisonment" for consistency throughout this article. See General
18 Revisor's Note to this article.

19 Defined terms: "Inmate" § 1-101

20 "State correctional facility" § 1-101

21 9-610. CONSTRUCTION OF PENALTY PROVISION.

22 IF A PROVISION OF THE CODE IMPOSES A PENALTY OF 3 MONTHS OF
23 IMPRISONMENT, THE PERIOD OF 3 MONTHS SHALL BE CALCULATED TO BE 90
24 CALENDAR DAYS.

25 REVISOR'S NOTE: This section is new language derived without substantive
26 change from former Art. 1, § 2A.

27 In this section, the former reference to how a period of 3 months shall be
28 "construed" is deleted as unnecessary in light of the specific requirement
29 that it be "calculated to be 90 calendar days".

30 9-611. COPY OF THE WARRANT OR DETAINER.

31 (A) DETAINEE ENTITLED TO TRUE COPY.

32 AN INDIVIDUAL WHO IS COMMITTED OR DETAINED, OR ANOTHER INDIVIDUAL
33 ON THAT INDIVIDUAL'S BEHALF, MAY DEMAND A TRUE COPY OF THE WARRANT OF
34 COMMITMENT OR DETAINER.

35 (B) PENALTY FOR FAILURE TO DELIVER.

1 IF AN OFFICER OR OTHER INDIVIDUAL NEGLECTS OR REFUSES TO DELIVER A
2 TRUE COPY OF THE WARRANT OF COMMITMENT OR DETAINER, IF THERE IS ONE,
3 WITHIN 6 HOURS AFTER THE COPY HAS BEEN DEMANDED, THE OFFICER OR OTHER
4 INDIVIDUAL SHALL FORFEIT \$500 TO THE INDIVIDUAL WHO IS COMMITTED OR
5 DETAINED.

6 (C) SURVIVAL OF ACTION.

7 THE RIGHT OF ACTION TO RECOVER THE FORFEITURE PROVIDED UNDER THIS
8 SECTION OR § 2-305 OF THE COURTS ARTICLE SURVIVES THE DEATH OF EITHER
9 PARTY.

10 (D) EXEMPTION FOR EMPLOYEES OF THE DIVISION OF CORRECTION.

11 THE PROVISIONS OF SUBSECTIONS (B) AND (C) OF THIS SECTION DO NOT APPLY
12 TO THE OFFICIALS AND EMPLOYEES OF THE DIVISION OF CORRECTION AND THE
13 PATUXENT INSTITUTION.

14 REVISOR'S NOTE: This section formerly was Art. 27, § 617.

15 In subsections (a) and (b) of this section, the references to an "individual"
16 are substituted for the former references to a "person" because only human
17 beings can be committed or detained or be required to deliver a copy of a
18 warrant or detainer.

19 In subsection (b) of this section, the references to a warrant "of
20 commitment" and to an individual who is "committed" or detained are
21 added for consistency with the language in subsection (a) of this section.

22 Defined term: "Division of Correction" § 1-101

23 GENERAL REVISOR'S NOTE TO SUBTITLE:

24 Former Art. 27, § 234, which required a fugitive felon found in this State to be
25 confined in this State or, on demand, delivered to the state from where the felon
26 escaped, is deleted as unnecessary and obsolete in light of the Uniform Criminal
27 Extradition Act and the Uniform Act for Persons of Unsound Mind, codified
28 respectively as Title 2, Subtitles 2 and 3 of Article 41 of the Code. These two Acts set
29 forth in detail the circumstances under which the Governor may request the
30 extradition to this State of an individual imprisoned or awaiting trial in another state
31 or may surrender, on demand of the executive authority of any other state, any
32 individual in this State charged with a criminal offense in the other state.

33 TITLE 10. STATE CORRECTIONAL FACILITIES.

34 SUBTITLE 1. CONSTRUCTION OF FACILITIES.

35 10-101. DEFINITIONS.

36 (A) IN GENERAL.

1 IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

2 REVISOR'S NOTE: This subsection is standard language added to introduce a
3 definition section.

4 (B) BOARD.

5 "BOARD" MEANS THE BOARD OF PUBLIC WORKS.

6 REVISOR'S NOTE: This subsection is new language added to avoid repetition of
7 the phrase "Board of Public Works".

8 (C) STATE CORRECTIONAL FACILITY.

9 "STATE CORRECTIONAL FACILITY" HAS THE MEANING STATED IN § 11-101(V) OF
10 THE STATE FINANCE AND PROCUREMENT ARTICLE.

11 REVISOR'S NOTE: This subsection is new language derived without
12 substantive change from former Art. 41, §§ 4-104.1(e) and 4-104.2(4).

13 The Correctional Services Article Review Committee notes, for
14 consideration by the General Assembly, that the term "State correctional
15 facility" is also defined in § 1-101 of this article. Currently, the definition
16 of "State correctional facility" in SF § 11-101(v) does not differ in any
17 substantive way from the definition of this term in § 1-101 of this article.
18 However, to ensure that "State correctional facility" is always defined to
19 have the same meaning in SF § 11-101(v) and § 1-101 of this article, the
20 General Assembly may wish to amend SF § 11-101(v) to provide that
21 "'State correctional facility' has the meaning stated in § 1-101 of the
22 Correctional Services Article". If the General Assembly chooses to amend
23 SF § 11-101(v) to track the definition of "State correctional facility" in §
24 1-101 of this article, this subsection should be deleted as circuitous.

25 REVISOR'S NOTE TO SECTION: The Correctional Services Article Review
26 Committee notes, for consideration by the General Assembly, that, in
27 addition to the term "State correctional facility", two terms that are used in
28 this subtitle are defined in SF § 11-101. These terms are "architectural
29 services" and "engineering services". The General Assembly may wish to
30 define these two terms in this section in the same way that they are
31 defined in SF § 11-101. The General Assembly also may wish to define
32 "construction related services" in this section in the same way that it is
33 defined in SF § 11-101 and use it as a substitute for similar references
34 throughout this subtitle (e.g., references to a "matter concerning
35 construction").

36 10-102. ARCHITECTURAL AND ENGINEERING ISSUES.

37 (A) DUTIES.

38 THE DEPARTMENT SHALL:

1 (1) ADVISE THE BOARD IN CONNECTION WITH EACH ENGINEERING
2 QUESTION OR MATTER CONCERNING CONSTRUCTION OF A STATE CORRECTIONAL
3 FACILITY;

4 (2) SUPERVISE EACH ENGINEERING QUESTION OR MATTER
5 CONCERNING THE DESIGN OR CONSTRUCTION OF A STATE CORRECTIONAL
6 FACILITY;

7 (3) SUBJECT TO SUBSECTION (B) OF THIS SECTION, APPROVE EACH
8 ARCHITECTURAL AND ENGINEERING DESIGN AND SERVICE IN CONNECTION WITH
9 THE CONSTRUCTION OF A STATE CORRECTIONAL FACILITY; AND

10 (4) EXAMINE AND APPROVE OR DISAPPROVE EACH DESIGN, PLAN, AND
11 SPECIFICATION PREPARED IN CONNECTION WITH THE PREPARATION OR EXECUTION
12 OF A CONTRACT FOR CONSTRUCTION OF A STATE CORRECTIONAL FACILITY.

13 (B) PROCUREMENT.

14 ARCHITECTURAL AND ENGINEERING SERVICES SHALL BE PROCURED AS
15 PROVIDED UNDER TITLE 13, SUBTITLE 3 OF THE STATE FINANCE AND PROCUREMENT
16 ARTICLE.

17 REVISOR'S NOTE: This section is new language derived without substantive
18 change from former Art. 41, § 4-104.1(a)(1), (2), and (4) and (c).

19 The Correctional Services Article Review Committee notes, for
20 consideration by the General Assembly, that the meaning of the term
21 "engineering question" in subsection (a)(1) and (2) of this section is unclear.
22 The General Assembly may wish to clarify the meaning of this term. See
23 also § 10-103 of this subtitle and accompanying Revisor's Note.

24 The Correctional Services Article Review Committee also notes, for
25 consideration by the General Assembly, that subsection (a)(3) of this
26 section does not explicitly allow the Department to "disapprove" a design
27 or service. The General Assembly may wish to fill this gap.

28 Defined terms: "Department" § 1-101

29 "State correctional facility" § 10-101

30 10-103. SAME -- SECRETARY.

31 A CONTRACT, PLAN, DESIGN, OR SPECIFICATION FOR CONSTRUCTION OF A
32 STATE CORRECTIONAL FACILITY THAT INVOLVES AN ENGINEERING QUESTION IS
33 SUBJECT TO THE APPROVAL OF THE SECRETARY.

34 REVISOR'S NOTE: This section formerly was Art. 41, § 4-104.1(a)(3).

35 The Correctional Services Article Review Committee notes, for
36 consideration by the General Assembly, that the meaning of the term
37 "engineering question" in this section is unclear. The General Assembly

1 may wish to clarify the meaning of this term. See also § 10-102(a)(1) and
2 (2) of this subtitle and accompanying Revisor's Note.

3 The only changes are in style.

4 Defined terms: "Secretary" § 1-101

5 "State correctional facility" § 10-101

6 10-104. DEPARTMENTAL INSPECTIONS.

7 (A) INSPECTION AND EVALUATION.

8 THE DEPARTMENT SHALL:

9 (1) INSPECT AND APPROVE OR DISAPPROVE THE MATERIAL,
10 EQUIPMENT, AND METHODS USED TO CONSTRUCT A STATE CORRECTIONAL
11 FACILITY; AND

12 (2) INSPECT THE STATE CORRECTIONAL FACILITY DURING THE COURSE
13 OF CONSTRUCTION.

14 (B) DUTIES -- ARCHITECT OR ENGINEER.

15 THE DUTY OF THE DEPARTMENT UNDER THIS SECTION DOES NOT RELIEVE AN
16 ARCHITECT OR ENGINEER OF A SUPERVISORY RESPONSIBILITY FOR WHICH THE
17 ARCHITECT OR ENGINEER IS EMPLOYED.

18 REVISOR'S NOTE: This section formerly was Art. 41, § 4-104.1(d).

19 The only changes are in style.

20 Defined terms: "Department" § 1-101

21 "State correctional facility" § 10-101

22 10-105. BIDS.

23 THE DEPARTMENT SHALL:

24 (1) REPRESENT THE BOARD AT THE OPENING OF BIDS FOR CONTRACTS
25 RELATED TO CONSTRUCTION OF A STATE CORRECTIONAL FACILITY;

26 (2) TABULATE AND RECORD THE BIDS; AND

27 (3) ADVISE THE BOARD ON THE BIDS.

28 REVISOR'S NOTE: This section formerly was Art. 41, § 4-104.1(b).

29 The only changes are in style.

30 Defined terms: "Board" § 1-101

31 "Department" § 1-101

1 "State correctional facility" § 10-101

2 10-106. SECRETARY.

3 NOTWITHSTANDING THE PROVISIONS OF §§ 4-310 THROUGH 4-315 OF THE
4 STATE FINANCE AND PROCUREMENT ARTICLE:

5 (1) THE PURCHASE OF ALL SUPPLIES, MATERIALS, AND EQUIPMENT FOR
6 CONSTRUCTION OF A STATE CORRECTIONAL FACILITY IS SUBJECT TO THE
7 APPROVAL OF THE SECRETARY;

8 (2) PAYMENT OF AN INVOICE FOR SUPPLIES, MATERIALS, OR
9 EQUIPMENT THAT THE DEPARTMENT PURCHASES FOR CONSTRUCTION OF A STATE
10 CORRECTIONAL FACILITY MAY NOT OCCUR UNTIL THE SECRETARY OR THE
11 SECRETARY'S DESIGNEE APPROVES THE INVOICE; AND

12 (3) THE SECRETARY SHALL SET STANDARDS THAT ARE CONSISTENT
13 WITH THE PROVISIONS OF DIVISION II OF THE STATE FINANCE AND PROCUREMENT
14 ARTICLE FOR THE PURCHASE OF SUPPLIES, MATERIALS, AND EQUIPMENT BY THE
15 DEPARTMENT FOR THE CONSTRUCTION OF A STATE CORRECTIONAL FACILITY.

16 REVISOR'S NOTE: This section is new language derived without substantive
17 change from former Art. 41, § 4-104.2(1) through (3).

18 Throughout this section, references to supplies, materials, and equipment
19 "for" construction are substituted for the former references to supplies,
20 materials, and equipment "in support of" construction for brevity.

21 Defined terms: "Department" § 1-101

22 "Secretary" § 1-101

23 "State correctional facility" § 10-101

24 10-107. JESSUP AREA -- LIMITATION ON CONSTRUCTION OF STATE CORRECTIONAL
25 FACILITIES.

26 (A) NUMBER OF BEDS.

27 (1) THE BOARD MAY NOT APPROVE A CONTRACT TO CONSTRUCT OR
28 RENOVATE A STATE CORRECTIONAL FACILITY FOR THE DEPARTMENT, IF THE
29 CONSTRUCTION OR RENOVATION WILL PROVIDE MORE THAN 3,400 BEDS IN THE
30 JESSUP AREA OF ANNE ARUNDEL AND HOWARD COUNTIES.

31 (2) THE TOTAL NUMBER OF BEDS SHALL BE COMPUTED AS FOLLOWS:

32 (I) JESSUP PRE-RELEASE UNIT (INCLUDING NEW DRUG UNIT) 184;

33 (II) PATUXENT INSTITUTION 640;

34 (III) MARYLAND CORRECTIONAL INSTITUTION FOR WOMEN 249;

35 (IV) BROCKBRIDGE CORRECTIONAL FACILITY..... 515;

1 (V) HOUSE OF CORRECTION, FOR RENOVATION OR REPLACEMENTS
 2 (512+500+400+400) 1,812; AND
 3 (VI) TOTAL..... 3,400.

4 (B) EXCEPTION.

5 THE LIMITATION ESTABLISHED UNDER THIS SECTION DOES NOT APPLY TO A
6 COMMUNITY ADULT REHABILITATION CENTER.

7 REVISOR'S NOTE: This section is new language derived without substantive
8 change from former Art. 78A, § 7.

9 In subsection (a) of this section, the reference to a "State correctional
10 facility" is substituted for the former reference to "prison facilities for the
11 Department of Public Safety and Correctional Services" for consistency
12 throughout this article. See General Revisor's Note to this article.

13 Also in subsection (a) of this section, the former reference to "the date on
14 which the new 500 bed replacement facility authorized jointly in Chapters
15 519 and 693 of the Acts of 1980 is open and accepting prisoners" is deleted
16 as obsolete in that the requirements of those laws have been met.

17 Defined terms: "Board" § 10-101

18 "Department" § 1-101

19 "State correctional facility" § 10-101

20 SUBTITLE 2. INMATE GRIEVANCE OFFICE.

21 10-201. "OFFICE" DEFINED.

22 IN THIS SUBTITLE, "OFFICE" MEANS THE INMATE GRIEVANCE OFFICE.

23 REVISOR'S NOTE: This section is new language added to avoid repetition of the
24 full name of the Inmate Grievance Office.

25 10-202. ESTABLISHED.

26 THERE IS AN INMATE GRIEVANCE OFFICE IN THE DEPARTMENT.

27 REVISOR'S NOTE: This section is new language derived without substantive
28 change from former Art. 41, § 4-102.1(a).

29 This section is revised using standard language for the creation of a unit of
30 State government.

31 The former phrase "as a separate agency" is deleted as surplusage.

32 Defined term: "Department" § 1-101

1 10-203. EXECUTIVE DIRECTOR AND EMPLOYEES.

2 (A) EXECUTIVE DIRECTOR.

3 (1) WITH THE APPROVAL OF THE GOVERNOR, THE SECRETARY SHALL
4 APPOINT AN EXECUTIVE DIRECTOR OF THE OFFICE.

5 (2) THE EXECUTIVE DIRECTOR SERVES AT THE PLEASURE OF THE
6 SECRETARY.

7 (3) THE EXECUTIVE DIRECTOR IS ENTITLED TO THE COMPENSATION
8 PROVIDED IN THE STATE BUDGET.

9 (B) EMPLOYEES.

10 IN ACCORDANCE WITH THE STATE BUDGET, THE SECRETARY MAY PROVIDE
11 THE OFFICE WITH THE ADMINISTRATIVE, SECRETARIAL, AND CLERICAL EMPLOYEES
12 NECESSARY FOR THE EFFICIENT ADMINISTRATION OF THE POWERS AND DUTIES OF
13 THE OFFICE.

14 REVISOR'S NOTE: This section is new language derived without substantive
15 change from former Art. 41, § 4-102.1(b).

16 In subsection (a)(3) of this section, the reference to "compensation" is
17 substituted for the former reference to "salary" for consistency throughout
18 this article. See General Revisor's Note to this article.

19 Defined terms: "Office" § 10-201

20 "Secretary" § 1-101

21 10-204. REGULATIONS.

22 SUBJECT TO THE APPROVAL OF THE SECRETARY, THE OFFICE MAY ADOPT
23 REGULATIONS GOVERNING THE CONDUCT OF ITS PROCEEDINGS UNDER THIS
24 SUBTITLE.

25 REVISOR'S NOTE: This section is new language derived without substantive
26 change from former Art. 41, § 4-102.1(j).

27 As to the deletion of the former reference to "rules", see General Revisor's
28 Note to this article.

29 Defined terms: "Office" § 10-201

30 "Secretary" § 1-101

31 10-205. RECORD OF COMPLAINTS.

32 (A) REQUIRED.

33 THE OFFICE SHALL KEEP A RECORD OF ALL COMPLAINTS SUBMITTED TO THE
34 OFFICE UNDER THIS SUBTITLE AND THE DISPOSITION OF EACH COMPLAINT.

1 (B) PUBLIC INSPECTION.

2 THE RECORD SHALL BE OPEN TO PUBLIC INSPECTION DURING REGULAR
3 BUSINESS HOURS.

4 REVISOR'S NOTE: This section is new language derived without substantive
5 change from former Art. 41, § 4-102.1(h).

6 In subsection (a) of this section, the reference to "[t]he Office" keeping a
7 record of all complaints is added to state expressly that which was only
8 implied in the former law.

9 Also in subsection (a) of this section, the phrase "submitted to the Office
10 under this subtitle" is added to state expressly that which was only implied
11 in the former law.

12 Defined term: "Office" § 10-201

13 10-206. SUBMISSION OF COMPLAINT TO INMATE GRIEVANCE OFFICE.

14 (A) AUTHORIZED.

15 SUBJECT TO SUBSECTION (B) OF THIS SECTION, IF AN INDIVIDUAL CONFINED
16 IN A CORRECTIONAL FACILITY IN THE DIVISION OF CORRECTION, OTHERWISE IN
17 THE CUSTODY OF THE COMMISSIONER OF CORRECTION, OR CONFINED IN THE
18 PATUXENT INSTITUTION HAS A GRIEVANCE AGAINST AN OFFICIAL OR EMPLOYEE OF
19 THE DIVISION OF CORRECTION OR THE PATUXENT INSTITUTION, THE INDIVIDUAL
20 MAY SUBMIT A COMPLAINT TO THE OFFICE WITHIN THE TIME AND IN THE MANNER
21 REQUIRED BY REGULATIONS ADOPTED BY THE OFFICE.

22 (B) EXHAUSTION OF REMEDIES.

23 IF THE DIVISION OF CORRECTION OR THE PATUXENT INSTITUTION HAS A
24 GRIEVANCE PROCEDURE APPLICABLE TO THE PARTICULAR GRIEVANCE OF AN
25 INDIVIDUAL DESCRIBED IN SUBSECTION (A) OF THIS SECTION AND THE OFFICE
26 CONSIDERS THE PROCEDURE TO BE REASONABLE AND FAIR, THE OFFICE, BY
27 REGULATION, MAY REQUIRE THAT THE PROCEDURE BE EXHAUSTED BEFORE
28 SUBMISSION OF A COMPLAINT TO THE OFFICE.

29 REVISOR'S NOTE: This section is new language derived without substantive
30 change from former Art. 41, § 4-102.1(c).

31 In this section and throughout this subtitle, when referring to the written
32 document submitted to the Inmate Grievance Office, the reference to a
33 "complaint" is substituted for the former reference to a "grievance or
34 complaint" for brevity and consistency with terminology used elsewhere in
35 this subtitle. See, e.g., §§ 10-205, 10-208(d), and 10-209(a) and (b) of this
36 subtitle. Correspondingly, in subsections (a) and (b) of this section, the
37 references to a "complaint" are deleted when referring to a grievance that
38 is not in the form of a written document.

1 In subsection (a) of this section, the introductory clause, "[s]ubject to
2 subsection (b) of this section", is added for clarity.

3 In subsection (b) of this section, the former phrase "to the extent that" is
4 deleted as unnecessary in light of the word "[i]f".

5 Also in subsection (b) of this section, the reference to the grievance "of an
6 individual described in subsection (a) of this section" is substituted for the
7 former reference to "an inmate's" grievance to avoid confusion with the
8 definition of the term "inmate" in § 1-101 of this article.

9 Defined terms: "Commissioner of Correction" § 1-101

10 "Correctional facility" § 1-101

11 "Division of Correction" § 1-101

12 "Office" § 10-201

13 10-207. PRELIMINARY REVIEW.

14 (A) REQUIRED.

15 THE EXECUTIVE DIRECTOR OR THE DIRECTOR'S DESIGNEE SHALL CONDUCT A
16 PRELIMINARY REVIEW OF EACH COMPLAINT SUBMITTED TO THE OFFICE.

17 (B) DISMISSAL.

18 (1) AFTER PRELIMINARY REVIEW, IF THE COMPLAINT IS DETERMINED
19 TO BE WHOLLY LACKING IN MERIT ON ITS FACE, THE EXECUTIVE DIRECTOR OR THE
20 DIRECTOR'S DESIGNEE MAY DISMISS THE COMPLAINT WITHOUT A HEARING OR
21 SPECIFIC FINDINGS OF FACT.

22 (2) (I) THE ORDER OF DISMISSAL SHALL BE FORWARDED TO THE
23 COMPLAINANT WITHIN 60 DAYS AFTER THE COMPLAINT WAS SUBMITTED TO THE
24 OFFICE.

25 (II) THE ORDER OF DISMISSAL CONSTITUTES THE FINAL DECISION
26 OF THE SECRETARY FOR PURPOSES OF JUDICIAL REVIEW.

27 (C) REFERRAL TO OFFICE OF ADMINISTRATIVE HEARINGS.

28 (1) AFTER PRELIMINARY REVIEW, IF THE COMPLAINT IS NOT FOUND TO
29 BE WHOLLY LACKING IN MERIT ON ITS FACE, THE OFFICE SHALL REFER THE
30 COMPLAINT TO THE OFFICE OF ADMINISTRATIVE HEARINGS.

31 (2) THE OFFICE OF ADMINISTRATIVE HEARINGS SHALL HOLD A
32 HEARING ON THE COMPLAINT AS PROMPTLY AS PRACTICABLE.

33 REVISOR'S NOTE: This section is new language derived without substantive
34 change from former Art. 41, § 4-102.1(d) and the first sentence of (e).

35 In subsection (c)(1) of this section, the requirement that the complaint be
36 referred to the Office of Administrative Hearings is new language added to

1 state expressly that which was only implied in the former law.

2 As to the references to "complaint" that are substituted for the former
3 references to "grievance or complaint" throughout this section, see
4 Revisor's Note to § 10-206 of this subtitle.

5 Defined terms: "Office" § 10-201

6 "Secretary" § 1-101

7 10-208. HEARING.

8 (A) CONDUCT OF HEARINGS AT CERTAIN INSTITUTIONS.

9 THE OFFICE OF ADMINISTRATIVE HEARINGS MAY CONDUCT HEARINGS UNDER
10 THIS SUBTITLE AT CORRECTIONAL FACILITIES IN THE DIVISION OF CORRECTION OR
11 AT THE PATUXENT INSTITUTION.

12 (B) ACCESS TO DOCUMENTARY EVIDENCE.

13 WITH THE APPROVAL OF THE SECRETARY, THE OFFICE OF ADMINISTRATIVE
14 HEARINGS SHALL HAVE ACCESS TO DOCUMENTARY EVIDENCE OF ANY PERSON OR
15 FACILITY THAT IS THE SUBJECT OF AN INVESTIGATION OR PROCEEDING UNDER
16 THIS SUBTITLE:

17 (1) AT ALL REASONABLE TIMES; AND

18 (2) FOR THE PURPOSE OF EXAMINING AND COPYING THE EVIDENCE.

19 (C) SUBPOENAS; OATHS; RECORD OF TESTIMONY.

20 (1) THE OFFICE OF ADMINISTRATIVE HEARINGS MAY ISSUE SUBPOENAS
21 REQUIRING:

22 (I) THE ATTENDANCE AND TESTIMONY OF WITNESSES; AND

23 (II) THE PRODUCTION OF DOCUMENTARY EVIDENCE RELATING TO
24 ANY MATTER UNDER INVESTIGATION.

25 (2) THE ADMINISTRATIVE LAW JUDGE PRESIDING AT A HEARING MAY
26 ADMINISTER OATHS.

27 (3) A RECORD OF THE TESTIMONY PRESENTED AT THE HEARING SHALL
28 BE KEPT IN ACCORDANCE WITH REGULATIONS ADOPTED BY THE OFFICE OF
29 ADMINISTRATIVE HEARINGS.

30 (D) RIGHTS OF COMPLAINANT.

31 (1) THE COMPLAINANT HAS THE RIGHT TO APPEAR BEFORE THE OFFICE
32 OF ADMINISTRATIVE HEARINGS AND TO BE REPRESENTED BY AN ATTORNEY OF THE
33 COMPLAINANT'S CHOICE AT THE COMPLAINANT'S EXPENSE.

1 (2) (I) THE COMPLAINANT SHALL HAVE THE OPPORTUNITY TO CALL A
 2 REASONABLE NUMBER OF WITNESSES DEPENDING ON THE CIRCUMSTANCES AND
 3 THE NATURE OF THE COMPLAINT, SUBJECT TO THE DISCRETION OF THE OFFICE OF
 4 ADMINISTRATIVE HEARINGS AND THE INMATE GRIEVANCE OFFICE AS TO THE
 5 RELEVANCE OF THE TESTIMONY AND QUESTIONS AND THE NUMBER OF WITNESSES
 6 SOUGHT TO BE CALLED.

7 (II) THE COMPLAINANT SHALL HAVE A REASONABLE
 8 OPPORTUNITY TO QUESTION ANY WITNESS WHO TESTIFIES BEFORE THE OFFICE OF
 9 ADMINISTRATIVE HEARINGS.

10 (3) THE RIGHTS OF THE COMPLAINANT UNDER THIS SUBSECTION MAY
 11 NOT BE UNREASONABLY WITHHELD OR RESTRICTED BY THE OFFICE OF
 12 ADMINISTRATIVE HEARINGS OR THE INMATE GRIEVANCE OFFICE.

13 REVISOR'S NOTE: This section is new language derived without substantive
 14 change from former Art. 41, § 4-102.1(f), (g), (i), and the second sentence of
 15 (e).

16 In subsection (a) of this section, the former phrase "[f]or the performance of
 17 its duties" is deleted as implicit.

18 Also in subsection (a) of this section, the phrase "under this subtitle" is
 19 added for clarity.

20 In subsection (b)(2) of this section, the reference to "for the purpose of ...
 21 copying" is substituted for the former phrase "the right to copy" for clarity.

22 In subsection (c)(2) of this section, the former word "affirmations" is
 23 deleted as unnecessary in light of the word "oaths". See Art. 1, § 9 of the
 24 Code.

25 As to the deletion of the former reference to "rules" in subsection (c)(3) of
 26 this section, see General Revisor's Note to this article.

27 In subsection (d) of this section and throughout this subtitle, the word
 28 "complainant" is substituted for the former word "inmate" for consistency
 29 with terminology used elsewhere in this subtitle and to avoid confusion
 30 with the definition of the term "inmate" in § 1-101 of this article.

31 In subsection (d)(2) of this section, the former reference to "a witness" is
 32 deleted as included in the reference to "a reasonable number of witnesses".

33 In subsection (d)(3) of this section, the phrase "under this subsection" is
 34 added for clarity.

35 Defined terms: "Correctional facility" § 1-101

36 "Office" § 10-201

37 "Person" § 1-101

38 "Secretary" § 1-101

1 10-209. DISPOSITION; REVIEW BY SECRETARY.

2 (A) ORDER.

3 (1) PROMPTLY AFTER THE HEARING ON A COMPLAINT, THE OFFICE OF
4 ADMINISTRATIVE HEARINGS SHALL ISSUE A DECISION IN THE FORM OF AN ORDER.

5 (2) THE ORDER SHALL INCLUDE A STATEMENT OF THE FINDINGS OF
6 FACT, THE CONCLUSIONS OF LAW, AND THE DISPOSITION OF THE COMPLAINT
7 UNDER SUBSECTION (B) OF THIS SECTION.

8 (B) TYPES OF DISPOSITION.

9 (1) (I) IF THE OFFICE OF ADMINISTRATIVE HEARINGS DISMISSES THE
10 COMPLAINT AS WHOLLY LACKING IN MERIT, IT PROMPTLY SHALL FORWARD AN
11 ORDER OF DISMISSAL TO THE COMPLAINANT.

12 (II) THE ORDER OF DISMISSAL CONSTITUTES THE FINAL DECISION
13 OF THE SECRETARY FOR PURPOSES OF JUDICIAL REVIEW.

14 (2) IF THE OFFICE OF ADMINISTRATIVE HEARINGS CONCLUDES THAT
15 THE COMPLAINT IS WHOLLY OR PARTLY MERITORIOUS, IT PROMPTLY SHALL
16 FORWARD A PROPOSED ORDER TO THE SECRETARY.

17 (C) REVIEW BY SECRETARY.

18 (1) WITHIN 15 DAYS AFTER RECEIVING A PROPOSED ORDER UNDER
19 SUBSECTION (B)(2) OF THIS SECTION, THE SECRETARY SHALL ISSUE AN ORDER
20 AFFIRMING, REVERSING, OR MODIFYING THE ORDER OF THE OFFICE OF
21 ADMINISTRATIVE HEARINGS.

22 (2) THE SECRETARY MAY TAKE ANY ACTION THE SECRETARY
23 CONSIDERS APPROPRIATE IN LIGHT OF THE FINDINGS OF THE OFFICE OF
24 ADMINISTRATIVE HEARINGS, INCLUDING ORDERING THE APPROPRIATE OFFICIAL TO
25 ACCEPT AS A WHOLE OR IN PART THE RECOMMENDATION OF THE OFFICE OF
26 ADMINISTRATIVE HEARINGS.

27 (3) (I) THE SECRETARY'S ORDER SHALL BE FORWARDED PROMPTLY
28 TO THE COMPLAINANT.

29 (II) THE SECRETARY'S ORDER CONSTITUTES THE FINAL DECISION
30 FOR PURPOSES OF JUDICIAL REVIEW.

31 REVISOR'S NOTE: This section is new language derived without substantive
32 change from the third and fourth sentences of former Art. 41, § 4-102.1(e).

33 In subsection (a)(1) of this section, the phrase "on a complaint" is added to
34 state expressly that which was only implied in the former law.

35 In subsection (a)(2) of this section, the reference to conclusions "of law" is
36 added for consistency with other provisions of the Code concerning

1 decisions by the Office of Administrative Hearings. See, e.g., SG §§ 10-220
2 and 10-221.

3 In subsection (b)(1) and (2) of this section, the former phrase "after the
4 hearing" is deleted as redundant in light of the requirement in subsection
5 (a)(1) of this section that the Office of Administrative Hearings issue its
6 decision "[p]romptly after the hearing".

7 In subsections (b)(2) and (c)(1) of this section, the reference to a "proposed"
8 order is added for clarity and consistency with other provisions of the Code
9 concerning decisions by the Office of Administrative Hearings. See, e.g.,
10 SG § 10-220.

11 In subsection (c)(1) of this section, the former phrase "where he disagrees
12 with the findings and conclusions of the Office of Administrative Hearings"
13 is deleted as implicit in a decision to reverse or modify the order of the
14 Office of Administrative Hearings.

15 The Correctional Services Article Review Committee notes, for
16 consideration by the General Assembly, that subsection (c)(1) of this
17 section lacks explicit authority to "remand". The Secretary does, in
18 practice, remand certain cases under the other authority implicit in
19 subsection (c)(1). The General Assembly may wish to add explicit authority
20 to "remand".

21 The Correctional Services Article Review Committee further notes that
22 subsection (c)(3)(ii) of this section makes the Secretary's order "the final
23 decision for purposes of judicial review". The General Assembly may wish
24 to create an exception for an order that remands a case.

25 In subsection (c)(2) of this section, the former reference to an official "of the
26 institution in question" is deleted as implicit in the reference to the
27 "appropriate" official.

28 Defined term: "Secretary" § 1-101

29 10-210. JUDICIAL REVIEW.

30 (A) EXHAUSTION OF REMEDIES.

31 A COURT MAY NOT CONSIDER AN INDIVIDUAL'S GRIEVANCE THAT IS WITHIN
32 THE JURISDICTION OF THE OFFICE OR THE OFFICE OF ADMINISTRATIVE HEARINGS
33 UNLESS THE INDIVIDUAL HAS EXHAUSTED THE REMEDIES PROVIDED IN THIS
34 SUBTITLE.

35 (B) CIRCUIT COURT REVIEW.

36 (1) THE COMPLAINANT IS ENTITLED TO JUDICIAL REVIEW OF THE
37 FINAL DECISION OF THE SECRETARY UNDER § 10-207(B)(2)(II) OR § 10-209(B)(1)(II) OR
38 (C)(3)(II) OF THIS SUBTITLE.

1 (2) PROCEEDINGS FOR REVIEW SHALL BE INSTITUTED IN THE CIRCUIT
2 COURT OF THE COUNTY IN WHICH THE COMPLAINANT IS CONFINED.

3 (3) REVIEW BY THE COURT SHALL BE LIMITED TO:

4 (I) A REVIEW OF THE RECORD OF THE PROCEEDINGS BEFORE THE
5 OFFICE AND THE OFFICE OF ADMINISTRATIVE HEARINGS AND ANY ORDER ISSUED
6 BY THE SECRETARY FOLLOWING THOSE PROCEEDINGS; AND

7 (II) A DETERMINATION OF WHETHER THE COMPLAINANT'S RIGHTS
8 UNDER FEDERAL OR STATE LAW WERE VIOLATED.

9 (C) APPELLATE REVIEW.

10 (1) THE ADMINISTRATIVE PROCEDURE ACT DOES NOT APPLY TO
11 APPELLATE REVIEW OF A FINAL JUDGMENT OF THE CIRCUIT COURT UNDER THIS
12 SECTION.

13 (2) A PARTY AGGRIEVED BY THE DECISION OF THE CIRCUIT COURT MAY
14 FILE AN APPLICATION FOR LEAVE TO APPEAL TO THE COURT OF SPECIAL APPEALS
15 IN ACCORDANCE WITH THE MARYLAND RULES.

16 REVISOR'S NOTE: This section is new language derived without substantive
17 change from former Art. 41, § 4-102.1(k) and (l).

18 In subsection (a) of this section, the reference to a "complaint" is deleted.
19 See Revisor's Note to § 10-206 of this subtitle.

20 In subsection (b)(1) of this section, the reference to the final decision of the
21 Secretary "under § 10-207(b)(2)(ii) or § 10-209(b)(1)(ii) or (c)(3)(ii) of this
22 subtitle" is added for clarity.

23 In subsection (b)(3)(ii) of this section, the former reference to
24 "constitutional requirements" is deleted as included in the reference to
25 "federal or State law".

26 Defined terms: "County" § 1-101

27 "Office" § 10-201

28 "Secretary" § 1-101

29 SUBTITLE 3. SUNDRY CLAIMS BOARD.

30 10-301. DEFINITIONS.

31 (A) IN GENERAL.

32 IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

33 REVISOR'S NOTE: This subsection is new language derived without
34 substantive change from the second sentence of former Art. 41, § 4-701(a)

1 as it introduced a definition provision.

2 (B) BOARD.

3 "BOARD" MEANS THE SUNDRY CLAIMS BOARD.

4 REVISOR'S NOTE: This subsection is new language added to avoid repetition of
5 the full title of the "Sundry Claims Board".

6 (C) PERMANENT PARTIAL DISABILITY.

7 "PERMANENT PARTIAL DISABILITY" HAS THE SAME MEANING GIVEN UNDER
8 TITLE 9, SUBTITLE 6, PART IV OF THE LABOR AND EMPLOYMENT ARTICLE.

9 REVISOR'S NOTE: This subsection is new language derived without
10 substantive change from the second sentence of former Art. 41, § 4-701(a)
11 as it defined "permanent partial disability".

12 In this subsection, the reference to "Title 9, Subtitle 6, Part IV" of the
13 Labor and Employment Article is substituted for the former reference to
14 "Title 9" of the Labor and Employment Article for accuracy. The provisions
15 of Title 9, Subtitle 6, Part IV of the Labor and Employment Article set forth
16 rules governing compensation for employees who are permanently
17 partially disabled due to an accidental personal injury or an occupational
18 disease.

19 (D) PERMANENT TOTAL DISABILITY.

20 "PERMANENT TOTAL DISABILITY" HAS THE SAME MEANING GIVEN UNDER
21 TITLE 9, SUBTITLE 6, PART V OF THE LABOR AND EMPLOYMENT ARTICLE.

22 REVISOR'S NOTE: This subsection is new language derived without
23 substantive change from the second sentence of former Art. 41, § 4-701(a)
24 as it defined "permanent total disability".

25 In this subsection, the reference to "Title 9, Subtitle 6, Part V" of the Labor
26 and Employment Article is substituted for the former reference to "Title 9"
27 of the Labor and Employment Article for accuracy. The provisions of Title
28 9, Subtitle 6, Part V of the Labor and Employment Article set forth rules
29 governing compensation for employees who are permanently totally
30 disabled due to an accidental personal injury or an occupational disease.

31 10-302. ESTABLISHED.

32 THERE IS A SUNDRY CLAIMS BOARD IN THE DEPARTMENT.

33 REVISOR'S NOTE: This section is new language derived without substantive
34 change from the third sentence and, as it established the Board, the first
35 sentence of former Art. 41, § 4-701(a). It is restated in the standard
36 language used to create a unit of State government.

1 Defined term: "Department" § 1-101

2 10-303. MEMBERSHIP AND EXPENSES.

3 (A) MEMBERSHIP.

4 THE BOARD CONSISTS OF THE FOLLOWING THREE MEMBERS:

5 (1) THE SECRETARY OF PUBLIC SAFETY AND CORRECTIONAL SERVICES,
6 OR THE SECRETARY'S REPRESENTATIVE;

7 (2) THE SECRETARY OF BUDGET AND MANAGEMENT, OR THE
8 SECRETARY'S REPRESENTATIVE; AND

9 (3) THE COMPTROLLER, OR THE COMPTROLLER'S REPRESENTATIVE.

10 (B) DESIGNATION OF OFFICERS.

11 THE GOVERNOR SHALL DESIGNATE ONE MEMBER OF THE BOARD AS
12 CHAIRPERSON AND ANOTHER MEMBER AS SECRETARY OF THE BOARD.

13 (C) MEETINGS.

14 THE CHAIRPERSON MAY CALL A MEETING OF THE BOARD.

15 (D) EXPENSE REIMBURSEMENT.

16 EACH MEMBER OF THE BOARD IS ENTITLED TO REIMBURSEMENT OF EXPENSES
17 UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE
18 BUDGET.

19 REVISOR'S NOTE: This section is new language derived without substantive
20 change from former Art. 41, § 4-701(g) and the second and third sentences
21 of (b).

22 In subsection (d) of this section, the former reference to the expenses of a
23 member that are "incident to his attendance and duties at the meeting"
24 and the former requirement that members' expense "vouchers [be]
25 approved by the chairman and secretary of the Board" are deleted as
26 unnecessary because the Standard State Travel Regulations specify the
27 types of expenses that are reimbursable and the forms to be used to
28 request reimbursement. See COMAR 23.02.01.01 through .12.

29 Defined terms: "Board" § 10-301

30 "Comptroller" § 1-101

31 10-304. ADMINISTRATION OF BENEFITS.

32 THE BOARD SHALL ADMINISTER BENEFITS AS PROVIDED UNDER THIS
33 SUBTITLE TO AN INDIVIDUAL WHO, WHILE AN INMATE IN THE PATUXENT

1 INSTITUTION, THE BALTIMORE CITY DETENTION CENTER, OR A CORRECTIONAL
2 FACILITY IN THE DIVISION OF CORRECTION:

3 (1) WAS ENGAGED IN WORK FOR WHICH WAGES OR A STIPULATED SUM
4 OF MONEY WAS PAID BY A CORRECTIONAL FACILITY; AND

5 (2) SUSTAINED A PERMANENT PARTIAL DISABILITY OR PERMANENT
6 TOTAL DISABILITY:

7 (I) AS A RESULT OF A PERSONAL INJURY ARISING OUT OF AND IN
8 THE COURSE OF WORK FOR WHICH WAGES OR A STIPULATED SUM OF MONEY WAS
9 PAID BY A CORRECTIONAL FACILITY; AND

10 (II) THAT INCAPACITATED THE INDIVIDUAL OR MATERIALLY
11 REDUCED THE INDIVIDUAL'S EARNING POWER IN THAT TYPE OF WORK.

12 REVISOR'S NOTE: This section is new language derived without substantive
13 change from the first sentence of former Art. 41, § 4-701(a).

14 In the introductory language of this section, the reference to a correctional
15 facility "in" the Division of Correction is substituted for the former
16 reference to a facility "under the supervision of" the Division for
17 consistency throughout this article. See General Revisor's Note to this
18 article.

19 In items (1) and (2)(i) of this section, the references to a stipulated sum "of
20 money" are added to state expressly that which was only implied in the
21 former references to a "stipulated sum".

22 In item (2)(i) of this section, the former reference to "one or more"
23 correctional facilities is deleted as unnecessary in light of Art. 1, § 8 of the
24 Code, which provides that the singular generally includes the plural.

25 In item (2)(ii) of this section, the reference to "that type of" work is
26 substituted for the former reference to "such" work for clarity.

27 Defined terms: "Board" § 10-301

28 "Correctional facility" § 1-101

29 "Division of Correction" § 1-101

30 "Inmate" § 1-101

31 "Permanent partial disability" § 10-301

32 "Permanent total disability" § 10-301

33 10-305. FILING A CLAIM.

34 (A) RIGHT TO FILE.

35 (1) AN INJURED INMATE MAY FILE A CLAIM FOR COMPENSATION
36 AGAINST THE STATE UNDER THIS SUBTITLE WITH THE BOARD.

1 (2) THE BOARD MAY RECEIVE ORIGINAL PAPERS REPRESENTING A
2 CLAIM EVEN IF THE STATE HAS NOT APPROPRIATED MONEY TO PAY THE CLAIM.

3 (B) TIME TO FILE.

4 AN INJURED INMATE SHALL FILE A CLAIM WITH THE BOARD BY THE LATER OF:

5 (1) 12 MONTHS AFTER BEING RELEASED FROM THE CORRECTIONAL
6 FACILITY; OR

7 (2) 24 MONTHS AFTER THE DATE OF INJURY.

8 (C) RECORD KEEPING.

9 THE BOARD SHALL FILE AND PROPERLY DESIGNATE EACH CLAIM BY NUMBER,
10 SHORT TITLE, OR BOTH.

11 REVISOR'S NOTE: This section is new language derived without substantive
12 change from the first sentence of former Art. 41, § 4-701(b) and the first
13 and second sentences of (c).

14 In subsection (a)(1) of this section, the reference that an inmate "may" file
15 a claim is substituted for the former reference that the inmate "shall have
16 the right to" file a claim for consistency with regard to discretionary
17 language throughout this article.

18 In subsection (a)(2) of this section, the reference to the Board's receipt of a
19 claim "even if the State has not appropriated money to pay the claim" is
20 substituted for the former reference to the Board's receipt of a claim "for
21 the payment of which no money has been appropriated" for clarity.

22 In subsection (c) of this section, the requirement that "[t]he Board" file and
23 properly designate claims is added to state expressly that which was only
24 implied in the first sentence of former Art. 41, § 4-701(c), which authorized
25 the Board to receive a claim from an inmate, as set forth in subsection
26 (a)(2) of this section, i.e., the Board is responsible for filing and designating
27 the claim.

28 Defined terms: "Board" § 10-301

29 "Correctional facility" § 1-101

30 "Inmate" § 1-101

31 10-306. OATHS, WITNESSES, DOCUMENTS, AND SUBPOENAS.

32 (A) IN GENERAL.

33 WITH RESPECT TO ANY CLAIM, A MEMBER OF THE BOARD MAY:

34 (1) ADMINISTER OATHS; AND

35 (2) ISSUE SUBPOENAS TO COMPEL:

- 1 (I) THE ATTENDANCE OF WITNESSES; AND
2 (II) THE PRODUCTION OF PERTINENT RECORDS OR DOCUMENTS.
3 (B) JUDICIAL ENFORCEMENT.

4 THE BOARD MAY PETITION A CIRCUIT COURT FOR AN ORDER OF CONTEMPT
5 AGAINST A PERSON WHO REFUSES TO:

- 6 (1) COMPLY WITH A SUBPOENA ISSUED BY A BOARD MEMBER;
7 (2) COMPLY WITH A REQUEST BY A BOARD MEMBER TO BE SWORN TO
8 AN OATH; OR
9 (3) ANSWER AS A WITNESS BEFORE THE BOARD.

10 REVISOR'S NOTE: This section is new language derived without substantive
11 change from the third and fourth sentences of former Art. 41, § 4-701(c).

12 In subsection (a)(2) of this section, the reference to the authority of a
13 member of the Board to "issue subpoenas" to compel the attendance of
14 witnesses and the production of documents is added to state expressly that
15 which was only implied in the last sentence of former Art. 41, § 4-701(c),
16 which authorized the Board to petition a circuit court to enforce a
17 subpoena, as set forth in subsection (b) of this section.

18 In subsection (a)(2)(ii) of this section, the word "documents" is substituted
19 for the former reference to "books and papers" for brevity.

20 In subsection (b) of this section, the reference to a "circuit court" is
21 substituted for the former reference to "any court having jurisdiction"
22 because only the circuit courts have the jurisdiction to receive petitions for
23 an order of contempt under this section.

24 Defined terms: "Board" § 10-301

25 "Person" § 1-101

26 10-307. DISPOSITION OF CLAIMS.

27 (A) IN GENERAL.

28 (1) THE BOARD SHALL INVESTIGATE EACH CLAIM FILED UNDER § 10-305
29 OF THIS SUBTITLE.

30 (2) AFTER ITS INVESTIGATION, THE BOARD SHALL:

- 31 (I) APPROVE THE CLAIM;
32 (II) APPROVE THE CLAIM SUBJECT TO CONDITIONS AND
33 LIMITATIONS; OR

1 (III) DISAPPROVE THE CLAIM.

2 (B) FINDINGS OF FACT.

3 THE BOARD SHALL APPEND TO THE ORIGINAL PAPERS REPRESENTING THE
4 CLAIM A CONCISE WRITTEN STATEMENT OF THE FACTS DEVELOPED IN THE
5 PROCEEDINGS ON WHICH ITS APPROVAL, CONDITIONAL OR LIMITED APPROVAL, OR
6 DISAPPROVAL IS BASED.

7 (C) RECORDS.

8 (1) THE BOARD SHALL FILE THE ORIGINAL PAPERS REPRESENTING THE
9 CLAIM AND ALL APPENDED DOCUMENTS IN THE OFFICE OF THE SECRETARY.

10 (2) (I) THE BOARD SHALL SEND A COPY OF THE ORIGINAL PAPERS
11 REPRESENTING THE CLAIM AND ALL APPENDED DOCUMENTS TO:

12 1. THE COMPTROLLER; AND

13 2. THE SECRETARY OF BUDGET AND MANAGEMENT.

14 (II) THE COMPTROLLER AND THE SECRETARY OF BUDGET AND
15 MANAGEMENT SHALL KEEP A RECORD OF THE DOCUMENTS SENT BY THE
16 SECRETARY UNDER ITEM (I) OF THIS PARAGRAPH.

17 (3) THE ORIGINAL PAPERS REPRESENTING THE CLAIM AND ALL
18 APPENDED DOCUMENTS CONSTITUTE A PERMANENT CLAIMS RECORD.

19 REVISOR'S NOTE: This section is new language derived without substantive
20 change from former Art. 41, § 4-701(d).

21 In subsection (b) of this section, the reference to a "written" statement is
22 added to state expressly that which was only implied in the former
23 reference to a "statement".

24 Also in subsection (b) of this section, the reference to "conditional or
25 limited approval" is added for consistency with subsection (a)(2) of this
26 section.

27 In subsection (c)(2)(i) of this section, the requirement that "[t]he Board ...
28 send a copy of the original papers representing the claim and all appended
29 documents to ... the Comptroller ... and ... the Secretary of Budget and
30 Management" is added to state expressly that which was only implied in
31 the last clause of the third sentence of former Art. 41, § 4-701(d), which
32 required that copies of these documents "be kept ... [by] the Comptroller
33 and ... the Secretary of Budget and Management".

34 In subsection (c)(3) of this section, the reference to "all appended
35 documents" is substituted for the former reference to "any other matters
36 pertaining thereto" for consistency with subsection (c)(1) and (2)(i) of this

1 section.

2 Defined terms: "Board" § 10-301

3 "Comptroller" § 1-101

4 "Secretary" § 1-101

5 10-308. CLAIM PAYMENTS.

6 (A) DETERMINATION OF COMPENSATION.

7 IN DETERMINING WHAT COMPENSATION, IF ANY, TO ALLOW A CLAIMANT, THE
8 BOARD SHALL CONSIDER:

9 (1) THE GOOD FAITH OF THE CLAIMANT;

10 (2) THE POSSIBILITY THAT THE ALLEGED INJURY WAS SELF-INFLICTED
11 OR NOT ACCIDENTAL;

12 (3) THE EXTENT AND NATURE OF THE INJURY;

13 (4) THE DEGREE OF DISABILITY;

14 (5) THE PERIOD OF DISABILITY OR INCAPACITY FOR OTHER WORK; AND

15 (6) THE ORDINARY EARNING POWER OF THE CLAIMANT.

16 (B) GOVERNOR TO INCLUDE MONEY IN THE STATE BUDGET.

17 (1) THE GOVERNOR SHALL INCLUDE MONEY TO PAY A CLAIM THAT IS
18 APPROVED BY THE BOARD IN THE STATE BUDGET FOR THE FISCAL YEAR THAT
19 FOLLOWS THE FISCAL YEAR IN WHICH THE BOARD APPROVES THE CLAIM.

20 (2) THE BOARD SHALL PAY TO THE CLAIMANT OR THE CLAIMANT'S
21 REPRESENTATIVE ANY COMPENSATION APPROVED BY THE BOARD AND INCLUDED
22 IN THE STATE BUDGET.

23 (C) EXCLUSIVE REMEDY.

24 THE COMPENSATION AUTHORIZED UNDER THIS SUBTITLE IS THE EXCLUSIVE
25 REMEDY AGAINST THE STATE FOR A CLAIM THAT FALLS WITHIN THE JURISDICTION
26 OF THE BOARD.

27 (D) JURISDICTION.

28 AN INMATE WORKING UNDER THE SUPERVISION OF STATE USE INDUSTRIES IN
29 THE FEDERAL PRISON INDUSTRY ENHANCEMENT PROGRAM:

30 (1) IS EXCLUDED FROM THE JURISDICTION OF THE BOARD; AND

31 (2) SHALL BE ADMINISTERED BENEFITS AS PROVIDED UNDER TITLE 9
32 OF THE LABOR AND EMPLOYMENT ARTICLE.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 41, § 4-701(e), (f), and (i).

3 In subsection (b)(1) and (2) of this section, the references to a claim that is
4 "approved" by the Board are substituted for the former reference to a claim
5 that is "allowed" by the Board for consistency with § 10-307(a)(2) of this
6 subtitle.

7 In subsection (b)(1) of this section, the reference to the State budget "for
8 the fiscal year that follows the fiscal year in which the Board approves the
9 claim" is substituted for the former reference to "the next State budget" for
10 clarity.

11 In subsection (c) of this section, the reference to the compensation
12 "authorized" under this subtitle is substituted for the former reference to
13 compensation "provided" under this subtitle for clarity because the Board
14 must make a determination as to whether an inmate is due benefits under
15 this subtitle before those benefits are provided.

16 Also in subsection (c) of this section, the former phrase "[e]xcept as
17 provided in paragraph (2) of this subsection" is deleted as unnecessary
18 because subsection (c) applies only to a claim that falls within the
19 "jurisdiction of the Board" and subsection (d) of this section, which is
20 derived from former Art. 41, § 4-701(i)(2), provides that an inmate working
21 under the supervision of State Use Industries in the Federal Prison
22 Industry Enhancement Program is "excluded from the jurisdiction of the
23 Board".

24 Defined terms: "Board" § 10-301

25 "Inmate" § 1-101

26 10-309. JUDICIAL REVIEW.

27 (A) RIGHT TO JUDICIAL REVIEW BY CLAIMANT.

28 (1) A CLAIMANT AGGRIEVED BY A FINAL DETERMINATION OF THE
29 BOARD MAY FILE A PETITION FOR JUDICIAL REVIEW IN THE CIRCUIT COURT OF THE
30 COUNTY WHERE THE INJURY OCCURRED OR WHERE THE CLAIMANT RESIDES.

31 (2) THE BOARD MAY BE A PARTY TO THE ACTION.

32 (B) DECISION BY CIRCUIT COURT.

33 THE CIRCUIT COURT MAY:

34 (1) AFFIRM THE BOARD'S DETERMINATION;

35 (2) REVERSE OR MODIFY A DETERMINATION IT FINDS TO BE ARBITRARY
36 OR UNREASONABLE; OR

1 (3) REMAND THE CASE AND DIRECT THE BOARD TO CONSIDER THE
2 MATTER FURTHER OR MAKE ADDITIONAL FINDINGS OF FACT.

3 (C) APPEAL TO COURT OF SPECIAL APPEALS.

4 THE CLAIMANT OR THE BOARD MAY APPEAL A DECISION OF THE CIRCUIT
5 COURT TO THE COURT OF SPECIAL APPEALS.

6 REVISOR'S NOTE: This section is new language derived without substantive
7 change from former Art. 41, § 4-701(h).

8 In subsection (a)(1) of this section, the reference to seeking "judicial
9 review" is substituted for the former permission to "appeal" for accuracy.
10 Correspondingly, in subsection (a)(2) of this section, the reference to an
11 "action" is substituted for the former reference to an "appeal".

12 In subsection (b) of this section, the former reference to the court's
13 authority to "render decision accordingly" is deleted as implicit in the
14 court's authority to "affirm the Board's determination", "reverse or modify
15 a determination", or "remand the case".

16 In subsection (b)(1) of this section, the reference to the court's authority to
17 "affirm" the Board's determination is substituted for the former reference
18 to the court's authority to "uphold" the Board's determination for
19 consistency with § 10-209(c)(1) of this title.

20 GENERAL REVISOR'S NOTE TO SUBTITLE: The Correctional Services
21 Article Review Committee notes, for consideration by the General
22 Assembly, that this subtitle does not include explicit authority for the
23 Sundry Claims Board to adopt regulations. Nevertheless, the Board has
24 adopted regulations. See COMAR 12.05.01.01 through .14. The General
25 Assembly may wish to expressly authorize the Board, with the approval of
26 the Secretary, to adopt regulations.

27 Defined terms: "Board" § 10-301

28 "County" § 1-101

29 SUBTITLE 4. CITIZENS' ADVISORY COMMITTEE.

30 10-401. "COMMITTEE" DEFINED.

31 IN THIS SUBTITLE, "COMMITTEE" MEANS A CITIZENS' ADVISORY COMMITTEE
32 ESTABLISHED UNDER THIS SUBTITLE.

33 REVISOR'S NOTE: This section is new language derived without substantive
34 change from former Art. 41, § 4-1101(c).

35 In this section, the reference to "a citizens' advisory committee" is
36 substituted for the former reference to "the citizens' advisory committees"
37 for clarity and in light of Art. 1, § 8, which provides that "[t]he singular

1 always includes the plural, and vice versa, except where such construction
2 would be unreasonable".

3 REVISOR'S NOTE TO SECTION:

4 Former Art. 41, § 4-1101(a) is deleted as unnecessary because the revision of
5 this subtitle has only one definition.

6 10-402. ESTABLISHED.

7 THERE IS A CITIZENS' ADVISORY COMMITTEE FOR THE STATE CORRECTIONAL
8 FACILITIES LOCATED IN OR PLANNED FOR LOCATION IN EACH OF THE FOLLOWING
9 AREAS:

- 10 (1) BALTIMORE CITY;
- 11 (2) CUMBERLAND;
- 12 (3) HAGERSTOWN;
- 13 (4) JESSUP; AND
- 14 (5) SOMERSET COUNTY.

15 REVISOR'S NOTE: This section is new language derived without substantive
16 change from former Art. 41, § 4-1102(a).

17 In the introductory language of this section, the reference to "each of the
18 following areas" is new language added to clarify that this section creates
19 one committee for each of the listed areas.

20 In item (1) of this section, the reference to Baltimore "City" is added to
21 state expressly that which was only implied in the former reference to
22 "Baltimore".

23 Defined term: "State correctional facility" § 1-101

24 10-403. MEMBERSHIP.

25 (A) COMPOSITION.

26 EXCEPT AS PROVIDED IN SUBSECTION (F)(1) OF THIS SECTION, A COMMITTEE
27 CONSISTS OF THE FOLLOWING SEVEN MEMBERS:

- 28 (1) ONE MEMBER APPOINTED BY THE GOVERNOR AND NOMINATED BY
29 THE SENATOR OF THE LEGISLATIVE DISTRICT IN WHICH THE STATE CORRECTIONAL
30 FACILITIES ARE LOCATED OR PLANNED FOR LOCATION;
- 31 (2) THREE MEMBERS APPOINTED BY THE GOVERNOR, EACH ONE
32 NOMINATED BY A DIFFERENT DELEGATE IN THE LEGISLATIVE DISTRICT IN WHICH

1 THE STATE CORRECTIONAL FACILITIES ARE LOCATED OR PLANNED FOR LOCATION;
2 AND

3 (3) THREE MEMBERS APPOINTED BY THE GOVERNOR TO PROVIDE, TO
4 THE EXTENT POSSIBLE, LEGAL, LAW ENFORCEMENT, AND BUSINESS
5 REPRESENTATIVES ON THE COMMITTEE.

6 (B) NOMINATIONS FROM LEGISLATORS.

7 THE GOVERNOR SHALL APPOINT EACH INDIVIDUAL NOMINATED BY A SENATOR
8 OR DELEGATE FOR A VACANCY ON A COMMITTEE WITHIN 60 DAYS AFTER RECEIPT OF
9 THE NOMINEE'S NAME.

10 (C) QUALIFICATIONS OF MEMBERS.

11 (1) EACH MEMBER NOMINATED BY A SENATOR OR DELEGATE MUST BE
12 A RESIDENT OF THE LEGISLATIVE DISTRICT IN WHICH THE STATE CORRECTIONAL
13 FACILITIES ARE LOCATED OR PLANNED FOR LOCATION.

14 (2) EACH MEMBER APPOINTED BY THE GOVERNOR UNDER SUBSECTION
15 (A)(3) OF THIS SECTION, MUST BE A RESIDENT OF THE COUNTY IN WHICH THE STATE
16 CORRECTIONAL FACILITIES ARE LOCATED OR PLANNED FOR LOCATION.

17 (D) TERMS.

18 (1) EXCEPT AS PROVIDED IN SUBSECTION (F)(3) OF THIS SECTION AND
19 EXCEPT FOR THE INITIAL APPOINTMENTS TO A COMMITTEE, THE TERM OF A
20 MEMBER IS 3 YEARS.

21 (2) THE TERMS OF MEMBERS ARE STAGGERED AS REQUIRED BY THE
22 TERMS PROVIDED FOR MEMBERS OF THE COMMITTEE ON OCTOBER 1, 1999.

23 (E) APPOINTMENT OF SUCCESSORS.

24 (1) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL A
25 SUCCESSOR IS APPOINTED AND QUALIFIES.

26 (2) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES
27 ONLY FOR THE REMAINDER OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED
28 AND QUALIFIES.

29 (F) SOMERSET COUNTY.

30 (1) IN SOMERSET COUNTY, THE COMMITTEE CONSISTS OF THE
31 FOLLOWING EIGHT MEMBERS:

32 (I) ONE MEMBER APPOINTED BY THE GOVERNOR AND NOMINATED
33 BY THE SENATOR FROM LEGISLATIVE DISTRICT 38;

34 (II) THREE MEMBERS APPOINTED BY THE GOVERNOR, EACH ONE
35 NOMINATED BY A DIFFERENT DELEGATE FROM LEGISLATIVE DISTRICT 38;

1 (III) THREE MEMBERS APPOINTED BY THE GOVERNOR TO PROVIDE,
 2 TO THE EXTENT POSSIBLE, LEGAL, LAW ENFORCEMENT, AND BUSINESS
 3 REPRESENTATIVES ON THE COMMITTEE; AND

4 (IV) A SOMERSET COUNTY COMMISSIONER APPOINTED BY THE
 5 BOARD OF COUNTY COMMISSIONERS OF SOMERSET COUNTY.

6 (2) EACH MEMBER OF THE COMMITTEE MUST BE A RESIDENT OF
 7 SOMERSET COUNTY.

8 (3) THE TERM OF THE SOMERSET COUNTY COMMISSIONER APPOINTED
 9 UNDER PARAGRAPH (1)(IV) OF THIS SUBSECTION IS EQUAL TO THE COMMISSIONER'S
 10 ELECTED TERM.

11 REVISOR'S NOTE: This section is new language derived without substantive
 12 change from former Art. 41, § 4-1102(b) through (f).

13 In subsections (a)(3) and (f)(1)(iii) of this section, the former references to
 14 the three "additional" members are deleted to clarify that these members
 15 are part of the total membership of a committee.

16 In subsections (a)(1) and (2) and (c)(1) and (2) of this section, the references
 17 to correctional facilities that are "planned for location" are added for
 18 consistency with § 10-402 of this subtitle, which establishes citizens'
 19 advisory committees for State correctional facilities that are located or
 20 "planned for location" in the listed jurisdictions.

21 In subsection (b) of this section, the reference to an "individual" is
 22 substituted for the former reference to "person" because only a human
 23 being, and not the other entities included in the defined term "person", can
 24 serve on a committee. See § 1-101 of this article for the definition of
 25 "person".

26 In subsection (d)(2) of this section, the reference to the members' terms
 27 being staggered "as required by the terms provided for members of the
 28 committee on October 1, 1999" is added as standard language. This
 29 addition is not intended to alter the term of any member of a committee.
 30 The terms of the members serving on October 1, 1999, end as follows: In
 31 Hagerstown, 1 term expires on June 30, 2000, 2 terms expire on June 30,
 32 2001, and 4 terms expire on June 30, 2002. In Jessup, 2 terms expire on
 33 June 30, 2000, 3 terms expire on June 30, 2001, and 2 terms expire on
 34 June 30, 2002. In Somerset County, for members other than the County
 35 Commissioner, 3 terms expire on June 30, 2000, 2 terms expire on June 30,
 36 2001, and 2 terms expire on June 30, 2002. In Baltimore City, 1 term
 37 expires on June 30, 2000, 1 term expires on June 30, 2001, 3 terms expire
 38 on June 30, 2002, and 2 membership positions have never been filled. In
 39 Cumberland, no membership positions have ever been filled.

40 The Correctional Services Article Review Committee notes, for
 41 consideration by the General Assembly, that, taken together, § 10-402 of

1 this subtitle and subsection (a) of this section strongly suggest that one
2 committee must be created for each of the areas specified in § 10-402 of
3 this subtitle. The appointment process, however, is based on legislative
4 districts. Geographic boundaries of legislative districts do not always
5 correspond to the geographic boundaries of political subdivisions. In
6 Baltimore City, most of the State correctional facilities are located in
7 District 44. However, the Baltimore Prerelease Unit for Women is located
8 in District 41 and the Baltimore Prerelease Unit for Women-Annex is
9 located in District 40. Because each legislative district in Baltimore City is
10 represented by three Delegates and one Senator, the law provides for more
11 possible nominations than there are possible member positions.
12 Additionally, subsection (b) of this section requires that the Governor
13 appoint the nominees submitted by each of the legislators. The Governor
14 does not have the authority to pick four appointees out of a larger
15 nomination pool. The General Assembly may wish to amend this subtitle to
16 clarify the procedure for appointing committee members for Baltimore
17 City.

18 In subsection (f)(2) of this section, the requirement that "[e]ach member ...
19 be a resident of Somerset County" is substituted for the former
20 requirement that "[e]ach member nominated by a Senator or Delegate ...
21 be a resident of Somerset County" and the former requirement that "[e]ach
22 of [the] 3 members [appointed by the Governor]" be a resident of Somerset
23 County. The new language makes the residency requirement applicable to
24 the Somerset County Commissioner who, necessarily, would be a resident
25 of Somerset County.

26 Defined terms: "Committee" § 10-401

27 "County" § 1-101

28 "State correctional facility" § 1-101

29 10-404. CHAIRPERSON.

30 (A) ELECTION FROM MEMBERS.

31 FROM AMONG ITS MEMBERS, EACH COMMITTEE SHALL ELECT A CHAIRPERSON.

32 (B) MANNER OF ELECTION.

33 THE MANNER OF ELECTION SHALL BE AS EACH COMMITTEE DETERMINES.

34 REVISOR'S NOTE: This section formerly was Art. 41, § 4-1102(g).

35 The only changes are in style.

36 Defined term: "Committee" § 10-401

37 10-405. QUORUM; MEETINGS; COMPENSATION.

38 (A) QUORUM.

1 A MAJORITY OF THE MEMBERS THEN SERVING ON A COMMITTEE IS A QUORUM.

2 (B) MEETINGS.

3 (1) EACH COMMITTEE SHALL MEET AT LEAST ONCE EVERY 3 MONTHS.

4 (2) THE MEETINGS OF EACH COMMITTEE SHALL BE HELD:

5 (I) IN A STATE CORRECTIONAL FACILITY IN A SPACE DESIGNATED
6 BY THE MANAGING OFFICIAL OF THE FACILITY; OR

7 (II) IF A STATE CORRECTIONAL FACILITY IS BEING PLANNED, IN A
8 LOCATION ACCESSIBLE TO THE MEMBERS OF THE COMMITTEE.

9 (C) COMPENSATION.

10 A MEMBER OF A COMMITTEE MAY NOT RECEIVE COMPENSATION.

11 REVISOR'S NOTE: This section is new language derived without substantive
12 change from former Art. 41, § 4-1102(h) through (j).

13 The Correctional Services Article Review Committee notes, for
14 consideration by the General Assembly, that former Art. 41, § 4-1102(j),
15 which is revised in subsection (c) of this section, does not authorize
16 reimbursement of expenses for committee members. In the absence of
17 source law that authorizes reimbursement of expenses for members of
18 boards, commissions, and committees, etc., the usual practice of the
19 Committee is to add standard language that authorizes reimbursement as
20 provided under the Standard State Travel Regulations. See COMAR
21 23.02.01.01 through .12. However, such language has not been added to
22 this section because the Committee is uncertain as to whether the
23 Standard State Travel Regulations apply to citizens' advisory committees.
24 The Standard State Travel Regulations apply only to expenses incurred for
25 official business undertaken by "officials and employees of units of the
26 Executive Branch of State government". See COMAR 23.02.01.01. The
27 General Assembly may wish to clarify whether committee members are
28 entitled to reimbursement for expenses.

29 Defined terms: "Committee" § 10-401

30 "Managing official" § 1-101

31 "State correctional facility" § 1-101

32 10-406. STAFF.

33 THE DEPARTMENT SHALL PROVIDE STAFF TO A COMMITTEE IN ACCORDANCE
34 WITH THE STATE BUDGET.

35 REVISOR'S NOTE: This section formerly was Art. 41, § 4-1103(b).

36 The only changes are in style.

1 Defined terms: "Committee" § 10-401

2 "Department" § 1-101

3 10-407. POWERS.

4 A COMMITTEE MAY:

5 (1) REPORT TO THE COMMISSIONER OF CORRECTION AND THE
6 GOVERNOR ABOUT THE CONCERNS OF THE PEOPLE WHO RESIDE IN THE VICINITY OF
7 EACH STATE CORRECTIONAL FACILITY ASSIGNED TO THE COMMITTEE;

8 (2) BE AVAILABLE TO INTERPRET PROGRAMS AND PROBLEMS RELATING
9 TO EACH STATE CORRECTIONAL FACILITY ASSIGNED TO THE COMMITTEE TO THE
10 PEOPLE WHO RESIDE IN THE VICINITY OF EACH FACILITY; AND

11 (3) PERFORM OTHER SERVICES AND RESPONSIBILITIES CONSIDERED
12 NECESSARY.

13 REVISOR'S NOTE: This section is new language derived without substantive
14 change from former Art. 41, §§ 4-1101(b) and 4-1103(a).

15 In items (1) and (2) of this section, the references to each facility "assigned
16 to the committee" are added to state expressly that which was only implied
17 in the former law, i.e., that a committee's duties relate only to the
18 correctional facilities to which the committee is assigned.

19 Also in items (1) and (2) of this section, the references to the "people who
20 reside" in the vicinity of a State correctional facility are substituted for the
21 former references to the "citizens residing" for clarity because the meaning
22 of the term "citizen" is unclear.

23 Defined terms: "Committee" § 10-401

24 "Commissioner of Correction" § 1-101

25 "State correctional facility" § 1-101

26 SUBTITLE 5. INMATE WELFARE FUNDS.

27 10-501. "FUND" DEFINED.

28 IN THIS SUBTITLE, "FUND" MEANS AN INMATE WELFARE FUND ESTABLISHED
29 UNDER § 10-502 OF THIS SUBTITLE.

30 REVISOR'S NOTE: This section is new language added to avoid repetition of the
31 longer term "inmate welfare fund".

32 10-502. ESTABLISHED; USES.

33 (A) ESTABLISHED.

1 THERE IS AN INMATE WELFARE FUND IN EACH STATE CORRECTIONAL
2 FACILITY.

3 (B) USES.

4 A FUND MAY BE USED ONLY FOR GOODS AND SERVICES THAT BENEFIT THE
5 GENERAL INMATE POPULATION AS DEFINED BY REGULATIONS THAT THE
6 DEPARTMENT ADOPTS.

7 REVISOR'S NOTE: This section is new language derived without substantive
8 change from former Art. 41, § 4-1501(a) and (h).

9 As to regulations adopted under this section, see COMAR 12.11.09.01
10 through .04.

11 Defined terms: "Department" § 1-101

12 "Fund" § 10-501

13 "Inmate" § 1-101

14 "State correctional facility" § 1-101

15 10-503. STATUS; INVESTMENTS.

16 (A) STATUS.

17 (1) EACH FUND IS A SPECIAL CONTINUING, NONLAPSING FUND THAT IS
18 NOT SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

19 (2) (I) EACH FUND CONSISTS OF:

20 1. PROFITS DERIVED FROM THE SALE OF GOODS THROUGH
21 THE COMMISSARY OPERATION AND TELEPHONE AND VENDING MACHINE
22 COMMISSIONS; AND

23 2. SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH,
24 MONEY RECEIVED FROM OTHER SOURCES.

25 (II) MONEY FROM THE GENERAL FUND OF THE STATE MAY NOT BE
26 TRANSFERRED BY BUDGET AMENDMENT OR OTHERWISE TO A FUND.

27 (3) THE TREASURER SHALL SEPARATELY HOLD AND THE COMPTROLLER
28 SHALL ACCOUNT FOR EACH FUND.

29 (4) EACH FUND IS SUBJECT TO AN AUDIT BY THE OFFICE OF
30 LEGISLATIVE AUDITS UNDER § 2-1220 OF THE STATE GOVERNMENT ARTICLE.

31 (B) INVESTMENTS.

32 (1) EACH FUND SHALL BE INVESTED AND REINVESTED IN THE SAME
33 MANNER AS OTHER STATE FUNDS.

34 (2) ANY INVESTMENT EARNINGS ARE NOT A PART OF THE FUND.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 41, § 4-1501(b), (c), (d), (e), and (g).

3 In subsection (a)(2)(i)1 of this section, the former reference to "profits
4 realized" is deleted as unnecessary in light of the reference to "profits
5 derived" in the same item.

6 In subsection (a)(2)(ii) of this section, the reference to "money" is
7 substituted for the former reference to "funds" to avoid confusion with the
8 defined term "fund". See § 10-501 of this subtitle.

9 Defined terms: "Comptroller" § 1-101

10 "Fund" § 10-501

11 "Treasurer" § 1-101

12 10-504. EXPENDITURES.

13 THE COMPTROLLER SHALL PAY OUT MONEY FROM EACH FUND AS APPROVED
14 IN THE STATE BUDGET.

15 REVISOR'S NOTE: This section formerly was Art. 41, § 4-1501(f).

16 No changes are made.

17 Defined terms: "Comptroller" § 1-101

18 "Fund" § 10-501

19 SUBTITLE 6. CORRECTIONAL FACILITIES OPERATED BY OTHER STATES.

20 10-601. CORRECTIONAL FACILITIES OPERATED BY OTHER STATES.

21 (A) "FACILITY" DEFINED.

22 AS USED IN THIS SECTION, "FACILITY" MEANS A CORRECTIONAL FACILITY OF
23 ANY KIND FOR ADULTS OR JUVENILES.

24 (B) REQUEST AND APPROVAL REQUIRED.

25 ANOTHER STATE MAY NOT BEGIN CONSTRUCTION OR OTHERWISE LOCATE A
26 FACILITY IN THIS STATE UNLESS THE OTHER STATE SUBMITS A WRITTEN REQUEST
27 FOR APPROVAL TO CONSTRUCT OR LOCATE THE FACILITY TO AND RECEIVES
28 APPROVAL FROM:

29 (1) THE SECRETARY OF PUBLIC SAFETY AND CORRECTIONAL SERVICES,
30 IN THE CASE OF A FACILITY FOR ADULTS; OR

31 (2) THE SECRETARY OF JUVENILE JUSTICE, IN THE CASE OF A FACILITY
32 FOR JUVENILES.

33 (C) APPROVAL OR DISAPPROVAL OF A REQUEST TO CONSTRUCT OR LOCATE A
34 FACILITY.

1 (1) THE SECRETARY OF PUBLIC SAFETY AND CORRECTIONAL SERVICES
2 MAY APPROVE OR DISAPPROVE A REQUEST FOR APPROVAL TO CONSTRUCT OR
3 LOCATE A FACILITY FOR ADULTS IN THIS STATE.

4 (2) THE SECRETARY OF JUVENILE JUSTICE MAY APPROVE OR
5 DISAPPROVE A REQUEST FOR APPROVAL TO CONSTRUCT OR LOCATE A FACILITY FOR
6 JUVENILES IN THIS STATE.

7 (3) APPROVAL OR DISAPPROVAL SHALL BE:

8 (I) AFTER CONSULTATION WITH THE GOVERNOR, THE GOVERNING
9 BODY OF THE COUNTY IN WHICH THE FACILITY WILL BE LOCATED, AND THE
10 COMMUNITY IN WHICH THE FACILITY WILL BE LOCATED; AND

11 (II) IN ACCORDANCE WITH APPLICABLE STANDARDS CONCERNING
12 THE LOCATION OF FACILITIES.

13 (D) INCREASE OF INMATE POPULATION IN EXISTING FACILITIES.

14 IF ANOTHER STATE HAS AN EXISTING FACILITY IN THIS STATE, THE OTHER
15 STATE MAY NOT INCREASE THE INMATE POPULATION OF THAT FACILITY BY MORE
16 THAN 5% UNLESS THE OTHER STATE FIRST SUBMITS A WRITTEN REQUEST FOR THE
17 INCREASE TO AND RECEIVES APPROVAL FOR THE INCREASE FROM:

18 (1) THE SECRETARY OF PUBLIC SAFETY AND CORRECTIONAL SERVICES,
19 IN THE CASE OF A FACILITY FOR ADULTS; OR

20 (2) THE SECRETARY OF JUVENILE JUSTICE, IN THE CASE OF A FACILITY
21 FOR JUVENILES.

22 REVISOR'S NOTE: This section is new language derived without substantive
23 change from former Art. 41, § 4-1211.

24 Subsection (a) of this section is new language added to avoid repetition of
25 the phrase "correctional facility of any kind for adults or juveniles".

26 In subsection (c)(3)(i) of this section, the former reference to the "local"
27 governing body of the county is deleted as implicit in the reference to the
28 "governing body of the county".

29 Defined terms: "County" § 1-101

30 "Inmate" § 1-101

31 "State" § 1-101

1 TITLE 11. LOCAL CORRECTIONAL FACILITIES.

2 SUBTITLE 1. ESTABLISHMENT OF LOCAL CORRECTIONAL FACILITIES.

3 11-101. SCOPE.

4 THIS SUBTITLE DOES NOT APPLY TO BALTIMORE CITY.

5 REVISOR'S NOTE: This section is new language derived without substantive
6 change from former Art. 27, § 705(a)(3).

7 This section also reflects the provisions of Ch. 59, § 3 of the Acts of 1991,
8 which transferred the Baltimore City Detention Center to the State.

9 11-102. ESTABLISHMENT AND MAINTENANCE; AGREEMENTS.

10 (A) ESTABLISHMENT AND MAINTENANCE.

11 THE GOVERNING BODY OF ONE OR MORE COUNTIES MAY ESTABLISH AND
12 MAINTAIN A LOCAL CORRECTIONAL FACILITY.

13 (B) AGREEMENTS.

14 (1) THE GOVERNING BODIES OF TWO OR MORE COUNTIES MAY ENTER
15 INTO A WRITTEN AGREEMENT WITH EACH OTHER AS TO ALLOCATION OF
16 RESPONSIBILITY, CONSTRUCTION, OPERATION, MAINTENANCE, AND APPOINTMENT
17 OF PERSONNEL IN CONNECTION WITH A LOCAL CORRECTIONAL FACILITY.

18 (2) THE STATE MAY BE A PARTY TO AN AGREEMENT UNDER THIS
19 SUBSECTION.

20 REVISOR'S NOTE: This section is new language derived without substantive
21 change from former Art. 27, § 705(b).

22 In subsection (b)(1) of this section, the reference to the "governing bodies of
23 two or more counties" is substituted for the former reference to the
24 "governing body of one or more counties" for clarity.

25 In subsection (b)(2) of this section, the former phrase "but need not be" is
26 deleted as unnecessary in light of the reference to "may".

27 Defined terms: "County" § 1-101

28 "Local correctional facility" § 1-101

29 11-103. RESPONSIBILITY OF MANAGING OFFICIAL; POWERS AND DUTIES OF SHERIFF.

30 (A) RESPONSIBILITY OF MANAGING OFFICIAL.

31 THE MANAGING OFFICIAL OF A LOCAL CORRECTIONAL FACILITY IS
32 RESPONSIBLE FOR THE SAFEKEEPING AND CARE OF EACH INMATE OR OTHER
33 INDIVIDUAL DETAINED IN OR SENTENCED TO THE LOCAL CORRECTIONAL FACILITY

1 FROM THE TIME THE INMATE OR INDIVIDUAL IS LAWFULLY DETAINED IN OR
2 COMMITTED TO THE LOCAL CORRECTIONAL FACILITY UNTIL DISCHARGED,
3 RELEASED, OR WITHDRAWN UNDER A COURT ORDER OR OTHER LAWFUL AUTHORITY.

4 (B) POWERS AND DUTIES OF SHERIFF.

5 EXCEPT WHEN AN INMATE OR OTHER INDIVIDUAL IS LAWFULLY ASSIGNED TO
6 A LOCAL CORRECTIONAL FACILITY OPERATED BY MORE THAN ONE COUNTY, THIS
7 SECTION DOES NOT AFFECT THE POWERS AND DUTIES OF THE SHERIFF OF A
8 COUNTY WITH RESPECT TO THE SAFEKEEPING AND CUSTODY OF AN INMATE OR
9 OTHER INDIVIDUAL.

10 REVISOR'S NOTE: This section is new language derived without substantive
11 change from former Art. 27, § 705(c).

12 In subsections (a) and (b) of this section, the word "individual" is
13 substituted for the former references to "person[s]" because only human
14 beings can be detained in, sentenced to, or assigned to a local correctional
15 facility.

16 Defined terms: "County" § 1-101

17 "Inmate" § 1-101

18 "Local correctional facility" § 1-101

19 "Managing official" § 1-101

20 11-104. FINANCIAL ASSISTANCE FROM STATE; FEDERAL AND OTHER GRANTS.

21 (A) SCOPE.

22 THIS SECTION APPLIES EXCEPT AS PROVIDED IN § 11-105 OF THIS SUBTITLE.

23 (B) APPLICATION TO SECRETARY FOR FINANCIAL ASSISTANCE.

24 (1) IF A COUNTY OR COUNTIES DETERMINE TO CONSTRUCT OR
25 MAINTAIN A LOCAL CORRECTIONAL FACILITY, THE COUNTY OR COUNTIES MAY
26 APPLY TO THE SECRETARY FOR FINANCIAL ASSISTANCE FOR THE CONSTRUCTION
27 OR ENLARGEMENT OF THE LOCAL CORRECTIONAL FACILITY.

28 (2) THE APPLICANT SHALL PROVIDE INFORMATION IN THE FORM
29 REQUIRED BY THE SECRETARY, INCLUDING:

30 (I) THE PROGRAM AND PLANS FOR CONSTRUCTION; AND

31 (II) THE REHABILITATION AND TRAINING PROGRAMS TO BE
32 INSTITUTED.

33 (C) STATE SHARE.

34 IF THE SECRETARY APPROVES A CONSTRUCTION PLAN UNDER THIS SECTION,
35 THE STATE SHALL PAY THE SAME SHARE AS THAT PROVIDED FOR JAIL
36 CONSTRUCTION OR REHABILITATION.

1 (D) FEDERAL AND OTHER GRANTS.

2 THE SECRETARY MAY RECEIVE A GRANT OF FUNDS FROM THE FEDERAL
3 GOVERNMENT OR ANY OTHER PUBLIC OR PRIVATE FOUNDATION OR AGENCY FOR
4 THE PURPOSES DESIGNATED IN THIS SECTION.

5 (E) CONSTRUCTION OR IMPROVEMENTS RESULTING FROM ADOPTION OF
6 STANDARDS.

7 (1) SUBJECT TO THE PROVISIONS OF PARAGRAPH (2) OF THIS
8 SUBSECTION, IF A COUNTY THAT MAINTAINS, OPERATES, OR PARTICIPATES IN A
9 LOCAL CORRECTIONAL FACILITY PROVIDES FOR IMPROVEMENTS TO THE LOCAL
10 CORRECTIONAL FACILITY THAT ARE REQUIRED AS THE RESULT OF THE ADOPTION
11 OF MANDATORY OR APPROVED STANDARDS, THE BOARD OF PUBLIC WORKS SHALL
12 MAKE PROVISION FOR THE STATE TO PAY 50% OF THE COSTS OF THE CONSTRUCTION
13 OR IMPROVEMENTS.

14 (2) THE PLANS AND COSTS FOR CONSTRUCTION OR IMPROVEMENTS
15 UNDER THIS SECTION SHALL BE SUBJECT TO APPROVAL BY:

16 (I) THE SECRETARY;

17 (II) THE DIVISION OF CORRECTION;

18 (III) THE DEPARTMENT OF GENERAL SERVICES; AND

19 (IV) THE DEPARTMENT OF BUDGET AND MANAGEMENT.

20 REVISOR'S NOTE: This section is new language derived without substantive
21 change from former Art. 27, § 705(d).

22 In subsection (b)(1) of this section, the word "construct" is substituted for
23 the former reference to "build" for consistency with subsection (e) of this
24 section.

25 The Correctional Services Article Review Committee notes, for
26 consideration by the General Assembly, that the meaning of the second
27 clause of Art. 27, § 705(d)(2), which is revised in the second clause of
28 subsection (c) of this section, is unclear. This provision was originally
29 enacted as part of Ch. 481, Acts of 1968, which authorized the governing
30 body of one or more counties to establish and maintain a regional detention
31 center. The legislative history of the original provision relating to the State
32 share for funding of construction costs for regional detention centers is not
33 available because there are no bill files from that period. Similarly, the
34 purpose paragraph of Ch. 481, Acts of 1968 offers no guidance as to the
35 meaning of this particular provision.

36 The meaning of this provision was further clouded by the enactment of Ch.
37 128, Acts of 1986, which revised the term "regional detention center"
38 throughout former Art. 27, § 705 to be "local detention center" and defined

1 "local detention center" to mean "any jail, work release, or prerelease
 2 center or any other correctional facility operated by one or more counties
 3 for the purpose of adult detention and confinement". The definition added
 4 by Ch. 128, Acts of 1986 made the provision relating to the State share for
 5 funding of construction costs in former Art. 27, § 705(d)(2) circuitous
 6 because the entire subtitle dealt with "jail construction and rehabilitation"
 7 and because jails were included in the definition of "local detention center"
 8 in former Art. 27, § 705(a)(1).

9 The second clause of former Art. 27, § 705(d)(2) seems to reflect a
 10 distinction between detention centers and jails that no longer exists.
 11 However, merely repealing this provision leaves unaddressed the issue of
 12 whether there is any mandatory State share for construction of or
 13 improvements to a local correctional facility. The General Assembly may
 14 wish to delete the second clause of subsection (c) of this section as
 15 meaningless or amend this clause to give it meaning.

16 The Correctional Services Article Review Committee notes, for
 17 consideration by the General Assembly, that subsection (d) of this section
 18 authorizes the Secretary to receive grants from a public or private
 19 "foundation or agency". This language excludes grants from individuals.
 20 The General Assembly may wish to amend subsection (d) of this section to
 21 authorize the Secretary to receive grants from any public or private
 22 "source".

23 Defined terms: "County" § 1-101

24 "Division of Correction" § 1-101

25 "Local correctional facility" § 1-101

26 "Secretary" § 1-101

27 11-105. FINANCIAL ASSISTANCE TO COUNTY FOR INMATES.

28 (A) APPLICATION FOR FINANCIAL ASSISTANCE.

29 IF THE SECRETARY DETERMINES THAT THE ANTICIPATED CONFINEMENT OF
 30 INMATES IN A COUNTY'S LOCAL CORRECTIONAL FACILITY AS A RESULT OF § 9-104(B)
 31 OF THIS ARTICLE WOULD EXCEED THE CAPACITY OF THE LOCAL CORRECTIONAL
 32 FACILITY, THE COUNTY MAY APPLY TO THE SECRETARY FOR FINANCIAL ASSISTANCE
 33 FOR THE CONSTRUCTION OF A NEW LOCAL CORRECTIONAL FACILITY OR
 34 ENLARGEMENT OF AN EXISTING LOCAL CORRECTIONAL FACILITY.

35 (B) STUDIES.

36 FOR THE PURPOSE OF ANTICIPATING INMATE CONFINEMENT UNDER
 37 SUBSECTION (A) OF THIS SECTION, THE SECRETARY ANNUALLY SHALL REVIEW AND
 38 STUDY EACH COUNTY'S LOCAL CORRECTIONAL FACILITY POPULATION IN
 39 CONJUNCTION WITH DATA RELEVANT TO PATTERNS OF:

40 (1) SENTENCING; AND

1 (2) GEOGRAPHIC DISTRIBUTION OF INMATES.

2 (C) STATE SHARE.

3 (1) SUBJECT TO THE STATE BUDGET APPROPRIATION PROCESS AND IN
4 ACCORDANCE WITH THIS SECTION, IF A COUNTY'S CONSTRUCTION PLAN IS
5 APPROVED BY THE SECRETARY UNDER THIS SECTION, THE STATE SHALL PAY ALL OF
6 THE APPROVED COSTS OF ACQUISITION, CONSTRUCTION, ARCHITECTURAL AND
7 ENGINEERING SERVICES, AND CAPITAL EQUIPMENT FOR:

8 (I) A NEW LOCAL CORRECTIONAL FACILITY; OR

9 (II) ENLARGEMENT OF AN EXISTING LOCAL CORRECTIONAL
10 FACILITY.

11 (2) IF A COUNTY'S CONSTRUCTION PLAN IS DISAPPROVED BY THE
12 SECRETARY, THE COUNTY MAY APPEAL TO THE BOARD OF PUBLIC WORKS.

13 (3) SUBJECT TO THE STATE BUDGET APPROPRIATION PROCESS, IF THE
14 BOARD OF PUBLIC WORKS APPROVES THE CONSTRUCTION PLAN, THE STATE SHALL
15 PAY ALL OF THE APPROVED COSTS OF ACQUISITION, CONSTRUCTION,
16 ARCHITECTURAL AND ENGINEERING SERVICES, AND CAPITAL EQUIPMENT FOR:

17 (I) A NEW LOCAL CORRECTIONAL FACILITY; OR

18 (II) ENLARGEMENT OF AN EXISTING LOCAL CORRECTIONAL
19 FACILITY.

20 (D) APPROVAL BY SECRETARY.

21 THE PLANS AND COSTS FOR CONSTRUCTION OR ENLARGEMENT OF A LOCAL
22 CORRECTIONAL FACILITY BY A COUNTY UNDER THIS SECTION ARE SUBJECT TO:

23 (1) THE PROCEDURES FOLLOWED BY STATE UNITS FOR REQUESTED
24 CAPITAL PROJECTS; AND

25 (2) APPROVAL BY THE SECRETARY.

26 REVISOR'S NOTE: This section is new language derived without substantive
27 change from former Art. 27, § 705(e).

28 In subsection (a) of this section, the former reference to "sentences imposed
29 under" § 9-104(b) of this article is deleted for accuracy. No substantive
30 change is intended. With certain exceptions, § 9-104(b) prohibits a judge
31 from sentencing an individual to the jurisdiction of the Division of
32 Correction for 12 months or less. Although § 9-104(b) requires, in effect,
33 that a sentence of 12 months or less be to a local correctional facility, it
34 does not technically authorize the imposition of a sentence.

35 Also in subsection (a) of this section, the references to the construction of "a
36 new local correctional facility" and the enlargement of "an existing local

1 correctional facility" are added to state expressly that which was only
 2 implied in the former reference to the construction or enlargement of "the
 3 [local correctional facility]".

4 In subsections (c)(1)(ii) and (3)(ii) and (d) of this section, the references to
 5 the "enlargement" of a local correctional facility are substituted for the
 6 former references to the "expansion" of a local correctional facility for
 7 consistency with subsection (a) of this section.

8 In subsection (c)(2) of this section, the former reference to appealing to the
 9 Board of Public Works "for approval of the ... plan" is deleted as implicit in
 10 the reference to an "appeal". It is also unnecessary in light of the reference
 11 to the Board's "approv[al]" in subsection (c)(3) of this section.

12 In subsection (d) of this section, the former reference to "process and" is
 13 deleted as redundant in light of the broad reference to the term
 14 "procedures".

15 Defined terms: "County" § 1-101

16 "Inmate" § 1-101

17 "Local correctional facility" § 1-101

18 "Secretary" § 1-101

19 11-106. CONTRACT BETWEEN STATE AND COUNTY OR COUNTIES.

20 (A) CONTRACT REQUIRED.

21 ON APPROVING LOCAL CORRECTIONAL FACILITY PLANS THAT REQUIRE STATE
 22 FINANCIAL ASSISTANCE, THE SECRETARY SHALL ENTER INTO A WRITTEN CONTRACT
 23 WITH THE COUNTY OR COUNTIES INVOLVED SETTING FORTH THE RIGHTS, POWERS,
 24 DUTIES, AND RESPONSIBILITIES OF ALL PARTIES.

25 (B) INMATES SENTENCED TO DIVISION OF CORRECTION.

26 THE CONTRACT MAY PROVIDE FOR THE HOUSING AND REHABILITATION IN A
 27 LOCAL CORRECTIONAL FACILITY OF INMATES SENTENCED TO STATE
 28 CORRECTIONAL FACILITIES UNDER CONDITIONS AGREED ON BY ALL PARTIES.

29 (C) CONTRACTUAL REQUIREMENTS OF REVIEW AND COMPLIANCE.

30 THE SECRETARY MAY NOT APPROVE A CONTRACT UNLESS THE CONTRACT
 31 PROVIDES:

32 (1) FOR A PERIODIC REVIEW OF THE FACILITIES AND REHABILITATION
 33 AND TRAINING PROGRAMS OF THE LOCAL CORRECTIONAL FACILITY BY THE
 34 MARYLAND COMMISSION ON CORRECTIONAL STANDARDS; AND

35 (2) THAT THE LOCAL CORRECTIONAL FACILITY IS IN SUBSTANTIAL
 36 COMPLIANCE WITH THE MINIMUM MANDATORY STANDARDS DESCRIBED IN §
 37 8-103(A) OF THIS ARTICLE.

1 (D) TRANSFERS TO THE DIVISION OF CORRECTION.

2 IN THE ABSENCE OF ANY CONTRACT, COURT ORDER, OR CONSENT DECREE,
3 INMATES SENTENCED TO THE JURISDICTION OF THE DIVISION OF CORRECTION MAY
4 NOT BE HOUSED IN A LOCAL CORRECTIONAL FACILITY FOR MORE THAN 30 DAYS
5 WHILE AWAITING TRANSFER TO THE DIVISION OF CORRECTION.

6 REVISOR'S NOTE: This section is new language derived without substantive
7 change from former Art. 27, § 705(f).

8 Throughout this section, the term "contract" is substituted for the term
9 "agreement" for consistency with subsection (c) of this section.

10 In subsection (c)(2) of this section, the reference to "minimum mandatory
11 standards described in § 8-103(a) of this article" is substituted for the
12 former reference to the "Commission's mandatory standards" for clarity
13 because the relevant standards are not promulgated by the Commission.
14 Under § 8-103(a) of this article, minimum mandatory standards for
15 correctional facilities are promulgated by the Secretary.

16 In subsection (d) of this section, the term "contract" is substituted for the
17 former phrase "contractual agreement" for consistency with subsection (c)
18 of this section.

19 Also in subsection (d) of this section, the reference to an inmate being
20 sentenced to the "jurisdiction of the Division" of Correction is substituted
21 for the former reference to an inmate being sentenced to the
22 "Commissioner" of Correction for consistency with § 9-103 of this article.

23 Defined terms: "County" § 1-101

24 "Division of Correction" § 1-101

25 "Inmate" § 1-101

26 "Local correctional facility" § 1-101

27 "Secretary" § 1-101

28 "State correctional facility" § 1-101

29 11-107. APPROVAL BY THE BOARD OF PUBLIC WORKS.

30 AN AGREEMENT, CONTRACT, OR OTHER INSTRUMENT APPROVED BY THE
31 SECRETARY SHALL BE SUBJECT TO THE APPROVAL OF THE BOARD OF PUBLIC WORKS
32 BEFORE FINAL EXECUTION.

33 REVISOR'S NOTE: This section formerly was Art. 27, § 705(h).

34 The only changes are in style.

35 Defined term: "Secretary" § 1-101

1 SUBTITLE 2. SAFETY, HEALTH, AND WELFARE OF INMATES.

2 11-201. SAFEKEEPING OF INMATES.

3 (A) DUTIES OF SHERIFF -- GENERALLY.

4 (1) THE SHERIFF OF A COUNTY SHALL KEEP SAFELY EACH INDIVIDUAL
5 COMMITTED BY LAWFUL AUTHORITY TO THE CUSTODY OF THE SHERIFF UNTIL THE
6 INDIVIDUAL IS DISCHARGED BY DUE COURSE OF LAW.

7 (2) (I) THE SHERIFF SHALL RECEIVE AND KEEP SAFELY IN A LOCAL
8 CORRECTIONAL FACILITY EACH INDIVIDUAL COMMITTED TO THE CUSTODY OF THE
9 SHERIFF UNDER AUTHORITY OF THE UNITED STATES UNTIL THE INDIVIDUAL IS
10 DISCHARGED BY DUE COURSE OF LAW.

11 (II) AN INDIVIDUAL COMMITTED TO THE CUSTODY OF THE
12 SHERIFF UNDER THE AUTHORITY OF THE UNITED STATES SHALL BE KEPT IN THE
13 SAME MANNER AND BE SUBJECT TO THE SAME PENALTIES AS AN INDIVIDUAL
14 COMMITTED TO THE CUSTODY OF THE SHERIFF UNDER THE AUTHORITY OF THE
15 STATE.

16 (III) FOR KEEPING AND SUPPORTING AN INDIVIDUAL COMMITTED
17 TO THE CUSTODY OF THE SHERIFF UNDER THE AUTHORITY OF THE UNITED STATES,
18 A SHERIFF IS ENTITLED TO RECEIVE 30 CENTS PER DAY TO BE PAID BY THE UNITED
19 STATES.

20 (B) MANAGING OFFICIAL -- LOCAL CORRECTIONAL FACILITY.

21 (1) IN A COUNTY THAT HAS ADOPTED A CHARTER UNDER ARTICLE XI-A
22 OF THE MARYLAND CONSTITUTION, THE COUNTY COUNCIL, BY RESOLUTION OR LAW,
23 MAY PROVIDE FOR THE APPOINTMENT OF A QUALIFIED INDIVIDUAL AS MANAGING
24 OFFICIAL OF THE LOCAL CORRECTIONAL FACILITY AND FOR QUALIFIED ASSISTANTS
25 NECESSARY TO PERFORM THE DUTIES OF THAT OFFICE.

26 (2) A MANAGING OFFICIAL IS RESPONSIBLE FOR THE SAFEKEEPING,
27 CARE, AND FEEDING OF INMATES COMMITTED TO THE CUSTODY OF A LOCAL
28 CORRECTIONAL FACILITY, INCLUDING AN INMATE WHO IS WORKING ON THE PUBLIC
29 HIGHWAYS OR GOING TO AND FROM THAT WORK, UNTIL THE INMATE IS
30 DISCHARGED, RELEASED, OR WITHDRAWN FROM THE LOCAL CORRECTIONAL
31 FACILITY BY DUE COURSE OF LAW.

32 (3) EXCEPT AS SPECIFICALLY PROVIDED IN PARAGRAPH (2) OF THIS
33 SUBSECTION, THIS SUBSECTION DOES NOT AFFECT THE POWERS AND DUTIES OF
34 THE SHERIFF OF A COUNTY RELATING TO CUSTODY AND SAFEKEEPING OF INMATES.

35 (C) ANNE ARUNDEL COUNTY -- LIMITED AUTHORITY OF CERTIFIED LAW
36 ENFORCEMENT OFFICERS.

1 THE COUNTY COUNCIL OF ANNE ARUNDEL COUNTY, BY RESOLUTION OR LAW,
2 MAY PROVIDE FOR THE CUSTODY, SAFEKEEPING, AND TRANSPORTATION OF
3 INMATES BY CERTIFIED LAW ENFORCEMENT OFFICERS OTHER THAN THE SHERIFF.

4 (D) BALTIMORE COUNTY JAIL -- SHERIFF'S DUTIES.

5 THE COUNTY COUNCIL OF BALTIMORE COUNTY, BY RESOLUTION OR LAW, MAY
6 REQUIRE THAT THE SHERIFF OF BALTIMORE COUNTY OPERATE AND ADMINISTER
7 THE BALTIMORE COUNTY JAIL.

8 REVISOR'S NOTE: This section is new language derived without substantive
9 change from former Art. 87, §§ 45, 47, 48, and 48A. It is revised as a
10 comprehensive statement on authority for custody of inmates to more
11 accurately express the apparent intent of the law.

12 In subsection (a) of this section, the references to "individual[s]" are
13 substituted for the former references to "persons" for accuracy because
14 only a human being, and not the other entities included in the defined
15 term "person", can be committed to a sheriff for safekeeping. See § 1-101 of
16 this article for the definition of "person". Similarly, in subsection (b)(1) of
17 this section, the reference to a qualified "individual" is substituted for the
18 former reference to a qualified "person" because only a human being can be
19 appointed as managing official of a local correctional facility.

20 In subsection (a)(2) of this section, the references to an individual who is
21 committed "to the custody of the sheriff" are added for consistency with
22 subsection (a)(1) of this section. Similarly, in subsection (b)(2) of this
23 section, the reference to an inmate who is committed "to the custody of a
24 local correctional facility" is added for consistency with subsection (a)(1) of
25 this section.

26 In subsection (a)(2)(i) of this section, the reference to due course of "law" is
27 substituted for the former reference to due course of the "laws [of the
28 United States]" for consistency with subsection (a)(1) of this section.

29 The Correctional Services Article Review Committee notes, for
30 consideration by the General Assembly, that the amount due to be paid for
31 keeping federal inmates under subsection (a)(2)(iii) of this section is
32 extraordinarily low and does not reasonably reflect current costs. As a
33 practical matter, each county usually enters into an agreement with the
34 federal marshal service or other appropriate federal agency for a per diem
35 rate for any federal prisoner the county agrees to take into custody. The
36 General Assembly may wish to repeal this section as obsolete or amend it
37 to reflect current practice, i.e., to authorize a county to enter into an
38 agreement with the federal government regarding reimbursement for the
39 cost of keeping and supporting individuals who are committed to the
40 custody of the sheriff under the authority of the United States government.

41 In subsection (b)(1) of this section, the former reference to an "ordinance" is
42 deleted as included in the comprehensive reference to a "law".

1 The Correctional Services Article Review Committee notes, for
2 consideration by the General Assembly, that the reference in the second
3 sentence of former Art. 87, § 48(a), which is revised in subsection (b)(2) of
4 this section, to inmates who are "committed" to the custody of a local
5 correctional facility could be interpreted to exclude the following two
6 categories of inmates: (1) inmates who are being held in the custody of a
7 local correctional facility under the terms of a contract with the federal
8 government, another state, or any other entity; and (2) inmates who are
9 being held in the custody of the local correctional facility after being
10 arrested but prior to an appearance before a commissioner or other judicial
11 authority. The General Assembly may wish to amend subsection (b)(2) of
12 this section to clarify that the managing official's duty to provide for the
13 safekeeping, care, and feeding of inmates extends to these two categories of
14 inmates.

15 In subsection (b)(2) of this section, the reference to the discharge, release,
16 or withdrawal of an inmate from a local correctional facility "by due course
17 of law" is substituted for the former reference to the discharge, release, or
18 withdrawal of an inmate "by the sheriff, or under court order, or other
19 authority" for consistency with terminology used in subsection (a) of this
20 section.

21 The Correctional Services Article Review Committee notes, for
22 consideration by the General Assembly, that the meaning of the word
23 "certified" in subsection (c) of this section is unclear because the former
24 law does not indicate the source of certification. This term may refer to
25 certification by the Correctional Training Commission (see Title 8, Subtitle
26 2 of this article), the Police Training Commission (see Art. 41, § 4-201 of
27 the Code), or another entity. The General Assembly may wish to amend
28 this subsection to clarify the source of certification.

29 In subsection (d) of this section, the reference to a "resolution or law" is
30 substituted for the former reference to a "proper legislative act" for
31 consistency with subsections (b) and (c) of this section.

32 Also in subsection (d) of this section, the former reference to "the
33 responsibility of the Chief of Police of Baltimore County" is deleted as
34 misleading and inaccurate. Under § 11-136 of the Baltimore County Code,
35 the Bureau of Correction of Baltimore County administers and operates
36 the Baltimore County Jail.

37 Defined terms: "County" § 1-101

38 "Inmate" § 1-101

39 "Local correctional facility" § 1-101

40 "Managing official" § 1-101

41 11-202. REMOVAL FROM COURT ON CONVICTION.

42 (A) DUTY OF SHERIFF.

1 EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, WHEN AN
2 INDIVIDUAL IS CONVICTED IN ANY COURT OF THE STATE AND SENTENCED TO
3 IMPRISONMENT IN THE DIVISION OF CORRECTION, THE SHERIFF OF THE COUNTY IN
4 WHICH THE COURT IS LOCATED SHALL:

5 (1) REMOVE THE INDIVIDUAL FROM THE COURT AS SOON AS POSSIBLE;
6 AND

7 (2) DELIVER THE INDIVIDUAL TO THE DIVISION OF CORRECTION AT THE
8 EXPENSE OF THE COUNTY.

9 (B) USE OF OTHER LAW ENFORCEMENT OFFICERS IN ANNE ARUNDEL
10 COUNTY.

11 THE COUNTY COUNCIL OF ANNE ARUNDEL COUNTY, BY RESOLUTION OR LAW,
12 MAY PROVIDE THAT A CERTIFIED LAW ENFORCEMENT OFFICER OTHER THAN THE
13 SHERIFF SHALL REMOVE AN INDIVIDUAL FROM COURT AFTER CONVICTION.

14 (C) CIVIL PENALTY.

15 A SHERIFF WHO DOES NOT COMPLY WITH SUBSECTION (A) OF THIS SECTION
16 SHALL FORFEIT \$1,000.

17 REVISOR'S NOTE: This section is new language derived without substantive
18 change from former Art. 87, § 26.

19 In subsection (a) of this section, the reference to an individual who is
20 sentenced to "imprisonment" is substituted for the former reference to an
21 individual who is sentenced to "undergo a confinement" for consistency
22 throughout this article. See General Revisor's Note to this article.

23 Also in subsection (a) of this section, the reference to an inmate who is
24 sentenced to imprisonment in the "Division of Correction" is substituted
25 for the former reference to an inmate who is sentenced to imprisonment in
26 the "penitentiary" for accuracy. Under § 9-103 of this article, if a law
27 requires that an individual be sentenced to a particular State correctional
28 facility, the law must be interpreted to require that an individual be
29 sentenced to the Division of Correction.

30 Also in subsection (a) of this section, the former reference to the sheriff's
31 responsibility to "safely" remove an inmate is deleted as unnecessary in
32 light of § 11-201 of this subtitle, which requires a sheriff to "keep safely"
33 all individuals committed to the sheriff's custody.

34 In subsection (b) of this section, the former reference to an "ordinance" is
35 deleted as included in the comprehensive reference to a "law".

36 The Correctional Services Article Review Committee notes, for
37 consideration by the General Assembly, that the meaning of the word
38 "certified" in subsection (b) of this section is unclear because the former

1 law does not indicate the source of certification. This term may refer to
2 certification by the Correctional Training Commission (see Title 8, Subtitle
3 2 of this article), the Police Training Commission (see Art. 41, § 4-201 of
4 the Code), or another entity. The General Assembly may wish to amend
5 this subsection to clarify the source of certification.

6 The Committee further notes, that the penalty provision in subsection (c)
7 of this section, by its terms, does not apply to law enforcement officers in
8 Anne Arundel County who, under subsection (b) of this section, may
9 perform the duty described in subsection (a) of this section instead of the
10 sheriff. The General Assembly may wish to amend subsection (c) of this
11 section to make it applicable to any individual who does not comply with
12 the requirements of subsection (a) of this section.

13 Defined terms: "County" § 1-101

14 "Division of Correction" § 1-101

15 11-203. HEALTH AND WELFARE OF INMATES.

16 (A) RESPONSIBILITY OF MANAGING OFFICIAL.

17 (1) THE MANAGING OFFICIAL OF A LOCAL CORRECTIONAL FACILITY
18 SHALL PROVIDE TO AN INMATE COMMITTED TO THE CUSTODY OF THE MANAGING
19 OFFICIAL:

20 (I) FOOD AND BOARD; AND

21 (II) ANY ARTICLE OF COMFORT THAT IS CONSIDERED NECESSARY
22 FOR A SICK INMATE BY THE PHYSICIAN ATTENDING THE INMATE.

23 (2) EXCEPT AS PROVIDED IN § 11-204 OF THIS SUBTITLE AND SUBJECT
24 TO SUBSECTIONS (B), (C), AND (D) OF THIS SECTION, THE COUNTY SHALL PAY THE
25 COSTS ASSOCIATED WITH FOOD, BOARD, AND ARTICLES OF COMFORT PROVIDED TO
26 INMATES UNDER PARAGRAPH (1) OF THIS SUBSECTION.

27 (B) REIMBURSEMENT FOR MEDICAL CARE.

28 AN INMATE IN A LOCAL CORRECTIONAL FACILITY WHO IS SICK, INJURED, OR
29 DISABLED SHALL:

30 (1) REIMBURSE THE COUNTY, AS APPROPRIATE, FOR THE PAYMENT OF
31 MEDICAL EXPENSES; AND

32 (2) PROVIDE THE MANAGING OFFICIAL WITH ANY INFORMATION
33 RELATING TO:

34 (I) THE EXISTENCE OF ANY HEALTH INSURANCE, GROUP HEALTH
35 PLAN, OR PREPAID MEDICAL CARE COVERAGE UNDER WHICH THE INMATE IS
36 INSURED OR COVERED;

1 (II) THE INMATE'S ELIGIBILITY FOR BENEFITS UNDER THE
2 MARYLAND MEDICAL ASSISTANCE PROGRAM;

3 (III) THE NAME AND ADDRESS OF ANY THIRD PARTY PAYOR; AND

4 (IV) ANY POLICY OR OTHER IDENTIFYING NUMBER RELATING TO
5 ITEMS (I) THROUGH (III) OF THIS ITEM.

6 (C) FEE FOR VISITS TO HEALTH CARE PROVIDERS.

7 (1) IN ADDITION TO OBTAINING ANY REIMBURSEMENT AUTHORIZED
8 UNDER SUBSECTION (B) OF THIS SECTION AND SUBJECT TO PARAGRAPH (4) OF THIS
9 SUBSECTION, THE GOVERNING BODY OF EACH COUNTY SHALL ESTABLISH A
10 REASONABLE FEE, NOT TO EXCEED \$4, FOR EACH VISIT BY AN INMATE IN A LOCAL
11 CORRECTIONAL FACILITY TO AN INSTITUTIONAL MEDICAL UNIT OR
12 NONINSTITUTIONAL PHYSICIAN, DENTIST, OR OPTOMETRIST.

13 (2) THE PER VISIT FEE SHALL BE DEDUCTED FROM AN INMATE'S
14 SPENDING FINANCIAL ACCOUNT, RESERVE FINANCIAL ACCOUNT, OR SIMILAR
15 ACCOUNT HELD BY THE MANAGING OFFICIAL ON BEHALF OF THE INMATE.

16 (3) THE FEES COLLECTED UNDER THIS SUBSECTION SHALL BE
17 DEPOSITED IN THE GENERAL FUND OF THE COUNTY.

18 (4) THIS SUBSECTION DOES NOT APPLY TO A VISIT BY AN INMATE TO A
19 MEDICAL UNIT OR A PHYSICIAN, DENTIST, OR OPTOMETRIST IF THE VISIT IS:

20 (I) REQUIRED AS A PART OF THE INTAKE PROCESS;

21 (II) REQUIRED FOR AN INITIAL PHYSICAL EXAMINATION;

22 (III) DUE TO A REFERRAL BY A NURSE OR PHYSICIAN'S ASSISTANT;

23 (IV) PROVIDED DURING A FOLLOW-UP VISIT THAT IS INITIATED BY
24 A MEDICAL PROFESSIONAL FROM THE LOCAL CORRECTIONAL FACILITY;

25 (V) INITIATED BY A MEDICAL OR MENTAL HEALTH STAFF MEMBER
26 OF THE LOCAL CORRECTIONAL FACILITY; OR

27 (VI) REQUIRED FOR NECESSARY TREATMENT.

28 (D) LIMITATION ON LIABILITY FOR REIMBURSEMENT AND CO-PAYMENTS.

29 SUBSECTIONS (B) AND (C) OF THIS SECTION DO NOT IMPOSE LIABILITY FOR
30 REIMBURSEMENT OR PAYMENT OF MEDICAL EXPENSES ON ANY PERSON OTHER
31 THAN AN INMATE PERSONALLY OR THROUGH A PERSON THAT PROVIDES
32 INSURANCE, COVERAGE, OR OTHER BENEFITS DESCRIBED UNDER SUBSECTION (B)
33 OF THIS SECTION.

34 REVISOR'S NOTE: This section is new language derived without substantive
35 change from former Art. 87, § 46(a), (b)(1), (e), and, except as they relate to

1 the Baltimore City Detention Center, (c) and (d).

2 As to the revision of former Art. 87, § 46 as it relates to the Baltimore City
3 Detention Center, see § 5-405 of this article.

4 In subsection (a)(1) of this section, the reference to an inmate who is
5 committed to the "custody" of a managing official is substituted for the
6 former reference to an inmate who is committed to the "charge" of a
7 managing official for consistency with § 11-201(a) and (b) of this subtitle.

8 In subsection (a)(2) of this section, the introductory phrase "[e]xcept as
9 provided in § 11-204 of this subtitle and subject to subsections (b), (c), and
10 (d) of this section" is added to clarify that a county's responsibility for costs
11 associated with food, board, and articles of comfort is limited by these
12 other provisions.

13 The Correctional Services Article Review Committee notes, for
14 consideration by the General Assembly, that the reference in former Art.
15 87, § 46(b)(1), which is revised in subsection (a)(1) of this section, to
16 inmates who are "committed" to the custody of the managing official could
17 be interpreted to exclude the following two categories of inmates: (1)
18 inmates who are being held in the custody of a managing official under the
19 terms of a contract with the federal government, another state, or any
20 other entity; and (2) inmates who are being held in the custody of a
21 managing official after being arrested but prior to an appearance before a
22 commissioner or other judicial authority. The General Assembly may wish
23 to amend subsection (a)(1) of this section to clarify that the managing
24 official's duty to provide for the safekeeping, care, and feeding of inmates
25 extends to these two categories of inmates.

26 In subsection (b)(2)(i) of this section, the reference to an inmate who is
27 "covered" or insured is added because it is not technically accurate to refer
28 to some types of prepaid medical coverage as "insurance".

29 In subsection (b)(2)(iv) of this section, the phrase "relating to items (i)
30 through (iii) of this item" is added to state expressly that which was only
31 implied in the former law.

32 In subsection (d) of this section, the former reference to the liability of a
33 person or "entity" is deleted in light of § 1-101 of this article, which defines
34 "person" to include any "entity".

35 Also in subsection (d) of this section, the reference to liability for
36 "reimbursement" or payment of medical expenses is added for consistency
37 with the language of subsections (b) and (c) of this section.

38 Defined terms: "County" § 1-101

39 "Inmate" § 1-101

40 "Local correctional facility" § 1-101

41 "Managing official" § 1-101

1 "Person" § 1-101

2 11-204. EXPENSES FOR TREATMENT IN STATE FACILITIES.

3 A COUNTY OR MANAGING OFFICIAL IS NOT RESPONSIBLE FOR PAYMENT FOR
4 SERVICES OR TREATMENT RENDERED TO AN INMATE AS A RESULT OF ADMISSION TO
5 A STATE FACILITY FOR INDIVIDUALS WHO HAVE MENTAL DISORDERS AS DEFINED IN
6 § 10-101(F) OF THE HEALTH - GENERAL ARTICLE.

7 REVISOR'S NOTE: This section is new language derived without substantive
8 change from former Art. 87, § 46(a) and (b)(2).

9 The reference to "a State facility for individuals who have mental disorders
10 as defined in § 10-101(f) of the Health - General Article" is substituted for
11 the former reference to a "State psychiatric hospital" for accuracy, because
12 not all facilities owned and operated by the State are referred to as
13 "psychiatric hospitals". For an enumeration of those facilities, see HG §
14 10-406.

15 Defined terms: "County" § 1-101

16 "Inmate" § 1-101

17 "Managing official" § 1-101

18 SUBTITLE 3. COMMUNITY ADULT REHABILITATION CENTERS.

19 11-301. DEFINITIONS.

20 (A) IN GENERAL.

21 IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

22 REVISOR'S NOTE: This subsection formerly was Art. 27, § 707(a).

23 The only changes are in style.

24 (B) CENTER.

25 "CENTER" MEANS A COMMUNITY ADULT REHABILITATION CENTER.

26 REVISOR'S NOTE: This subsection formerly was Art. 27, § 707(b).

27 No changes are made.

28 (C) COMMISSIONER.

29 "COMMISSIONER" MEANS THE COMMISSIONER OF CORRECTION.

30 REVISOR'S NOTE: This subsection formerly was Art. 27, § 707(c).

31 No changes are made.

1 Defined term: "Commissioner of Correction" § 1-101

2 (D) REGIONAL CENTER.

3 "REGIONAL CENTER" MEANS A CENTER THAT SERVES MORE THAN ONE
4 COUNTY.

5 REVISOR'S NOTE: This subsection is new language added to avoid repetition of
6 the phrase "center that serves more than one county". It is based on former
7 Art. 27, § 708(c) as it related to regional centers.

8 Defined term: "County" § 1-101

9 11-302. "CENTER" TO INCLUDE REGIONAL CENTER.

10 EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, PROVISIONS OF THIS
11 SUBTITLE THAT APPLY TO A CENTER SHALL ALSO APPLY TO A REGIONAL CENTER.

12 REVISOR'S NOTE: This section is new language added to clarify that provisions
13 that refer only to "a center" and that lack an express reference to a "center
14 or regional center" are intended also to apply to regional centers.

15 Defined terms: "Center" § 11-301

16 "Regional center" § 11-301

17 11-303. LEGISLATIVE FINDINGS.

18 THE GENERAL ASSEMBLY FINDS THAT:

19 (1) THERE IS A NEED FOR CENTERS FOR THE HOUSING AND
20 REHABILITATION OF INDIVIDUALS WHO HAVE BEEN CONVICTED OF CRIMES BUT
21 WHO, IN THE JUDGMENT OF THE COURTS AND APPROPRIATE CORRECTIONAL
22 PERSONNEL, CAN BEST BE REHABILITATED WITHOUT SUBSTANTIAL DANGER TO THE
23 COMMUNITY IN A LOCAL COMMUNITY FACILITY;

24 (2) THE CENTERS SHOULD BE ONLY ONE COMPONENT IN THE OVERALL
25 CORRECTIONAL SYSTEM AND BE UTILIZED ONLY FOR INDIVIDUALS WHO CAN BEST
26 BE REHABILITATED IN THEM AND WHO WILL NOT PRESENT A SUBSTANTIAL DANGER
27 TO THE COMMUNITY;

28 (3) TO ASSURE THE PUBLIC THAT THE CENTERS WILL BE SAFE, THE
29 CENTERS SHOULD, TO THE MAXIMUM EXTENT PRACTICABLE, BE LOCATED AND
30 OPERATED BY THE COUNTIES, CONSISTENT WITH STATEWIDE STANDARDS, AND
31 WITH STATE FINANCIAL AND TECHNICAL SUPPORT; AND

32 (4) THE STATE SHOULD HAVE THE AUTHORITY TO LOCATE, CONSTRUCT,
33 AND OPERATE A CENTER ONLY IF:

34 (I) THERE IS A DEMONSTRATED NEED FOR A CENTER; AND

1 (II) THE COUNTY FAILS TO PROVIDE FOR THE LOCATION OF A
2 CENTER AFTER A REASONABLE TIME.

3 REVISOR'S NOTE: This section is new language derived without substantive
4 change from former Art. 27, § 706.

5 In the introductory language of this section, the former word "declares" is
6 deleted as redundant of the word "finds" and for consistency with similar
7 provisions elsewhere in the revised articles of the Code. See, e.g., BR §
8 3-102 and IN § 7-102.

9 In items (1) and (2) of this section, the references to "individuals" are
10 substituted for the former references to "persons" because only a human
11 being, and not the other entities included in the defined term "person", can
12 be rehabilitated. See § 1-101 of this article for the definition of "person".

13 In item (3) of this section, the reference to the "public" is substituted for
14 the former reference to the "people" for consistency with terminology used
15 elsewhere in the revised articles of the Code. See General Revisor's Note to
16 this article.

17 In items (3) and (4) of this section, the references to "counties" and "county"
18 are substituted for the former references to "local government" for
19 consistency within this subtitle, which refers exclusively to "county" rather
20 than "local government" throughout.

21 In item (4) of this section, the reference to the defined term "center" is
22 substituted for the former reference to a "facility" for consistency within
23 this subtitle. See § 11-301 of this subtitle for the definition of "center".

24 In item (4)(ii) of this section, the reference to the county "fail[ing]" to
25 provide for the location of a center after a reasonable time is substituted
26 for the former reference to "the inability of" the county to provide for the
27 location of a center in light of § 11-307(e) of this subtitle, which provides
28 that the Secretary shall declare a county or counties in default if the
29 county or counties fail to submit a proposed site and plans within a certain
30 period of time.

31 Defined terms: "Center" § 11-301

32 "County" § 1-101

33 11-304. SCOPE; CONVERSION OF WORK RELEASE PROGRAMS INTO CENTERS.

34 (A) SCOPE.

35 THIS SUBTITLE DOES NOT AFFECT:

36 (1) THE AUTHORITY GRANTED UNDER TITLE 11, SUBTITLES 1 AND 7 OF
37 THIS ARTICLE; OR

1 (2) A WORK RELEASE PROGRAM ESTABLISHED UNDER TITLE 11,
2 SUBTITLES 1 AND 7 OF THIS ARTICLE.

3 (B) CONVERSION OF WORK RELEASE PROGRAMS INTO CENTERS.

4 (1) WITH THE APPROVAL OF THE SECRETARY, A COUNTY MAY CONVERT
5 A WORK RELEASE PROGRAM ESTABLISHED UNDER TITLE 11, SUBTITLES 1 AND 7 OF
6 THIS ARTICLE INTO A CENTER THAT IS SUBJECT TO THIS SUBTITLE.

7 (2) THE PROVISIONS OF § 11-309 OF THIS SUBTITLE DO NOT APPLY TO A
8 WORK RELEASE PROGRAM THAT IS CONVERTED INTO A CENTER.

9 (3) THE SECRETARY SHALL ADOPT REGULATIONS FOR THE
10 CONVERSION OF A WORK RELEASE PROGRAM INTO A CENTER.

11 REVISOR'S NOTE: This section is new language derived without substantive
12 change from former Art. 27, § 710E.

13 In subsections (a) and (b) of this section, the references to authority
14 granted and work release programs established under Title 11, Subtitle 1
15 of this article are technically narrower than the references in former Art.
16 27, § 710E to authority granted and work release programs established
17 under former Art. 27, § 705 because former Art. 27, § 705(g) is revised in §
18 9-105 of this article. However, since former Art. 27, § 705(g) related only to
19 the sentencing of individuals to local correctional facilities, omitting
20 references to § 9-105 in subsections (a) and (b) of this section does not
21 affect a substantive change.

22 Also in subsections (a) and (b) of this section, the references to authority
23 granted and work release programs established under Title 11, Subtitle 7
24 of this article are technically broader than the references in former Art. 27,
25 § 710E to authority granted and work release programs established under
26 former Art. 27, §§ 645K through 645V. Title 11, Subtitle 7 of this article
27 includes source law from former Art. 27, §§ 638AC, 639A, and 645W
28 through 645MM, as well as source law from former Art. 27, §§ 645K
29 through 645V. However, the references in subsections (a) and (b) of this
30 section to Title 11, Subtitle 7 in its entirety do not affect a substantive
31 change. The provisions of former Art. 27, §§ 638AC and 639A, which are
32 revised in §§ 11-712(b) and 11-719 of this article, do not conflict in any
33 way with subsections (a) and (b) of this section. The provisions of former
34 Art. 27, §§ 645W through 645MM, which were enacted after the original
35 enactment of Art. 27, § 710E (see Ch. 234, Acts of 1976), established the
36 same types of authority for various counties as was established in former
37 Art. 27, §§ 645T through 645V for Montgomery, Harford, and Prince
38 George's Counties. The Committee believes that former Art. 27, § 710E
39 should have been amended to include a cross-reference to each of these
40 sections as they were enacted by the General Assembly.

41 In subsection (b)(3) of this section, the requirement that the Secretary
42 "adopt regulations" is substituted for the former requirement that the

1 Secretary "by rule, adopt procedures" for consistency throughout this
2 article. See General Revisor's Note to this article.

3 Defined terms: "Center" § 11-301

4 "County" § 1-101

5 "Secretary" § 1-101

6 11-305. STANDARDS.

7 (A) IN GENERAL.

8 THE REGULATIONS ADOPTED BY THE SECRETARY UNDER § 8-103(A) AND (B) OF
9 THIS ARTICLE SHALL INCLUDE MINIMUM STATE STANDARDS FOR CENTERS.

10 (B) CRITERIA AND GUIDELINES.

11 THE MINIMUM STATE STANDARDS FOR CENTERS SHALL INCLUDE CRITERIA
12 AND GUIDELINES FOR:

13 (1) SITING;

14 (2) PHYSICAL CHARACTERISTICS, INCLUDING DESIGN AND LAYOUT;

15 (3) PROGRAMS AND STAFFING;

16 (4) SCREENING PROCEDURES FOR PLACEMENT;

17 (5) ACCOUNTING, REPORTING, AND ACCOUNTABILITY; AND

18 (6) GENERAL PROGRAM AND MANAGEMENT OPERATIONS.

19 (C) DEVELOPMENT, ADOPTION, AND ENFORCEMENT OF STANDARDS.

20 THE SECRETARY SHALL COMPLY WITH THE ADMINISTRATIVE PROCEDURE ACT,
21 TITLE 7, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE, AND OTHER APPLICABLE
22 LAWS IN THE DEVELOPMENT, ADOPTION, AND ENFORCEMENT OF STANDARDS.

23 REVISOR'S NOTE: This section is new language derived without substantive
24 change from former Art. 27, § 709.

25 In subsection (a) of this section, the former reference to "rule[s]" is deleted
26 for consistency throughout this article. See General Revisor's Note to this
27 article.

28 In subsection (b)(1), (2), and (4) of this section, the former references to
29 "centers" are deleted as unnecessary in light of the reference to "centers" in
30 the introductory language of this subsection.

31 In subsection (c) of this section, the former requirement that "[t]hese
32 standards ... be deemed to be rules and regulations" is deleted as
33 unnecessary in light of subsection (a) of this section, which provides that

1 the Secretary shall adopt regulations that establish minimum State
2 standards.

3 The Correctional Services Article Review Committee notes, for
4 consideration by the General Assembly, that subsection (c) of this section
5 seems unnecessary. All Executive Branch agencies that promulgate
6 regulations must comply with the Administrative Procedure Act, which
7 sets forth requirements governing the proposal and adoption of
8 regulations, including publication in the Maryland Register and review by
9 the Joint Committee on Administrative, Executive, and Legislative
10 Review. See Title 10, Subtitle 1 of the State Government Article. Also, Title
11 7, Subtitle 2 of the State Government Article, which was formerly the State
12 Documents Law and is now entitled "Division of State Documents", has no
13 particular relevance to the responsibilities of an executive agency in
14 connection with the "development, adoption, and enforcement" of
15 regulations. The General Assembly may wish to repeal subsection (c) of
16 this section as meaningless.

17 Defined terms: "Center" § 11-301

18 "Secretary" § 1-101

19 11-306. EVALUATION AND DETERMINATION OF NEED.

20 (A) SECRETARY TO EVALUATE AND DETERMINE NEED; REQUEST FOR
21 EVALUATION OF NEED.

22 (1) WITH THE ASSISTANCE AND ADVICE OF THE COMMISSIONER, THE
23 SECRETARY SHALL EVALUATE AND DETERMINE THE NEED, IF ANY, FOR ONE OR
24 MORE CENTERS OR REGIONAL CENTERS IN EACH COUNTY OR MULTICOUNTY
25 REGION OF THE STATE.

26 (2) IN PREPARING AN EVALUATION OF NEED AS PROVIDED UNDER
27 PARAGRAPH (1) OF THIS SUBSECTION, THE SECRETARY SHALL:

28 (I) FOR A CENTER THAT SERVES A SINGLE COUNTY, CONSULT
29 WITH THE GOVERNING BODY OF THAT COUNTY; OR

30 (II) FOR A REGIONAL CENTER, CONSULT WITH THE GOVERNING
31 BODY OF EACH COUNTY IN THE REGION.

32 (3) A COUNTY OR THE COUNTIES IN A REGION MAY REQUEST A
33 COMPLETED EVALUATION OF NEED STUDY FROM THE SECRETARY.

34 (B) STANDARD.

35 THE STANDARD TO BE USED BY THE SECRETARY IN MAKING A DETERMINATION
36 OF NEED IS WHETHER AND TO WHAT EXTENT, BASED ON HISTORIC DATA AND
37 REASONABLE PROJECTIONS, THERE ARE AND WILL BE RESIDENTS OF THE COUNTY
38 OR REGION CONVICTED OF CRIMES WHO CAN BEST BE REHABILITATED IN

1 COMMUNITY-BASED FACILITIES WITHOUT SUBSTANTIAL DANGER TO THE
2 COMMUNITY.

3 (C) CERTIFICATION OF NEED.

4 (1) IF THE SECRETARY DETERMINES THAT A CENTER OR A REGIONAL
5 CENTER IS NEEDED, THE SECRETARY SHALL:

6 (I) FOR A CENTER THAT SERVES A SINGLE COUNTY, CERTIFY THE
7 DETERMINATION OF NEED TO THE GOVERNING BODY OF THAT COUNTY; OR

8 (II) FOR A REGIONAL CENTER, CERTIFY THE DETERMINATION OF
9 NEED TO THE GOVERNING BODY OF EACH COUNTY IN THE REGION.

10 (2) THE DETERMINATION THAT IS CERTIFIED BY THE SECRETARY AS
11 PROVIDED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL INCLUDE THE
12 PRESENT AND FUTURE NEEDS OVER AT LEAST A 10-YEAR PERIOD.

13 REVISOR'S NOTE: This section is new language derived without substantive
14 change from former Art. 27, § 708(a), (b), and (c).

15 In subsection (a)(1) of this section, the reference to the authority of the
16 Secretary to evaluate and determine the need for "regional centers" is
17 added for clarity in light of the reference to a center "in each county or
18 multicounty region of the State".

19 In subsections (a)(2)(i) and (c)(1)(i) of this section, the references to a
20 "center that serves a single county" are added for clarity. Similarly, in
21 subsections (a)(2)(ii) and (c)(1)(ii) of this section, the references to a
22 "regional center" are added for clarity.

23 In subsection (a)(2)(ii) of this section, the reference to the governing body of
24 "each county" in a region is added for clarity since counties of a region are
25 governed individually rather than as a unit. Similarly, in subsection
26 (c)(1)(i) and (ii) of this section, the requirement that the Secretary certify a
27 determination of need to the "governing body of that county" or the
28 "governing body of each county in the region" is substituted for the former
29 reference to "respective governing bodies" for clarity.

30 In subsection (a)(3) of this section, the reference to an "evaluation of" need
31 study is substituted for the former reference to a "need" study for
32 consistency with subsection (a)(2) of this section.

33 In subsection (c)(2) of this section, the former reference to the Secretary
34 making "recommendations [where appropriate] for regional centers to
35 serve more than one county" is deleted as redundant in light of subsection
36 (c)(1)(ii) of this section, which provides that the Secretary can make a
37 determination of need for a regional center.

1 Defined terms: "Center" § 11-301

2 "Commissioner" § 11-301

3 "County" § 1-101

4 "Regional center" § 11-301

5 "Secretary" § 1-101

6 11-307. ESTABLISHMENT; CAPACITY.

7 (A) COUNTY TO SELECT SITE.

8 (1) IF THE SECRETARY DETERMINES AND CERTIFIES THAT THERE IS A
9 PRESENT NEED FOR A CENTER OR REGIONAL CENTER, THE COUNTY OR COUNTIES IN
10 A REGION SHALL PROMPTLY INITIATE AND PURSUE APPROPRIATE PROCEDURES TO
11 SELECT A SUITABLE SITE FOR THE CENTER.

12 (2) THE SECRETARY SHALL COOPERATE WITH AND ASSIST THE COUNTY
13 OR COUNTIES IN A REGION IN THE SELECTION OF A SITE THAT WILL BE CONSISTENT
14 WITH THE STANDARDS ADOPTED UNDER § 11-305 OF THIS SUBTITLE.

15 (3) BEFORE SELECTING A SITE, THE GOVERNING BODY OF A COUNTY IN
16 WHICH A SITE IS PROPOSED SHALL HOLD AT LEAST ONE PUBLIC HEARING IN THE
17 COUNTY.

18 (B) ACQUISITION OF SITES AND FACILITIES.

19 (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A COUNTY MAY:

20 (I) ACQUIRE A SITE OR FACILITY THAT IS LOCATED IN THE
21 COUNTY FOR USE AS A CENTER BY LEASE, PURCHASE, CONDEMNATION, OR OTHER
22 LAWFUL MANNER; AND

23 (II) CONSTRUCT OR RENOVATE A FACILITY ON A SITE ACQUIRED BY
24 THE COUNTY.

25 (2) A COUNTY MAY NOT EXERCISE THE AUTHORITY GRANTED UNDER
26 PARAGRAPH (1) OF THIS SUBSECTION UNLESS THE SECRETARY HAS DETERMINED
27 THAT:

28 (I) THERE IS A NEED FOR THE CENTER;

29 (II) THE PROPOSED SITE AND FACILITY ARE APPROPRIATE; AND

30 (III) THE FACILITY IS OR, ON COMPLETION, WILL BE, CONSISTENT
31 WITH THE STANDARDS ADOPTED UNDER § 11-305 OF THIS SUBTITLE.

32 (C) AGREEMENT FOR REGIONAL CENTER.

33 SUBJECT TO THE REQUIREMENTS OF AND AUTHORITY GRANTED UNDER
34 SUBSECTION (B) OF THIS SECTION, COUNTIES MAY ENTER INTO AGREEMENTS WITH
35 EACH OTHER AND WITH THE STATE FOR THE LOCATION, ACQUISITION,
36 CONSTRUCTION, AND RENOVATION OF FACILITIES FOR A REGIONAL CENTER.

1 (D) COUNTIES WITH MULTIPLE DISTRICTS.

2 IF A COUNTY IS DIVIDED INTO COUNCILMANIC DISTRICTS OR CONTAINS MORE
3 THAN ONE LEGISLATIVE DISTRICT, THE COUNTY MAY PROVIDE BY ORDINANCE THAT
4 IT WILL NOT PLACE MORE THAN ONE CENTER IN A COUNCILMANIC OR LEGISLATIVE
5 DISTRICT UNLESS THERE IS A CENTER IN EACH COUNCILMANIC OR LEGISLATIVE
6 DISTRICT IN THE COUNTY.

7 (E) DEFAULT.

8 (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, IF A
9 COUNTY OR THE COUNTIES IN A REGION FAIL TO SUBMIT TO THE SECRETARY A
10 PROPOSED SITE AND PLANS FOR A FACILITY ON IT CONSISTENT WITH THE
11 STANDARDS ADOPTED UNDER § 11-305 OF THIS SUBTITLE WITHIN 18 MONTHS AFTER
12 THE SECRETARY HAS CERTIFIED THE NEED FOR A CENTER UNDER § 11-306(C) OF
13 THIS SUBTITLE, THE SECRETARY SHALL DECLARE THE COUNTY OR COUNTIES IN
14 DEFAULT.

15 (2) FOR GOOD CAUSE SHOWN, THE SECRETARY MAY EXTEND THE TIME
16 ALLOWED UNDER PARAGRAPH (1) OF THIS SUBSECTION FOR NOT MORE THAN 6
17 MONTHS.

18 (F) SELECTION AND ACQUISITION UPON DEFAULT.

19 (1) SUBJECT TO PARAGRAPHS (2) AND (3) OF THIS SUBSECTION, IF THE
20 SECRETARY DECLARES A COUNTY OR COUNTIES IN A REGION IN DEFAULT UNDER
21 SUBSECTION (E) OF THIS SECTION, THE SECRETARY SHALL RECOMMEND A SITE FOR
22 A CENTER OR A REGIONAL CENTER TO THE BOARD OF PUBLIC WORKS.

23 (2) THE SECRETARY MAY RECOMMEND TO THE BOARD OF PUBLIC
24 WORKS A SITE FOR A REGIONAL CENTER IN LIEU OF A CENTER THAT SERVES A
25 SINGLE COUNTY.

26 (3) THE SECRETARY SHALL MAKE A RECOMMENDATION FOR A SITE:

27 (I) WITHIN 6 MONTHS OF A DEFAULT; AND

28 (II) AFTER HOLDING A PUBLIC HEARING IN THE COUNTY IN WHICH
29 THE SITE IS PROPOSED.

30 (4) IF THE BOARD OF PUBLIC WORKS APPROVES A SITE, THE STATE MAY
31 EXERCISE THE AUTHORITY GRANTED TO COUNTIES UNDER SUBSECTION (B) OF THIS
32 SECTION.

33 (G) MAXIMUM CAPACITY.

34 A CENTER MAY NOT BE ESTABLISHED OR EXPANDED BEYOND A CAPACITY OF
35 108 BEDS WITHOUT THE APPROVAL OF THE SECRETARY AND:

1 (1) FOR A SINGLE COUNTY CENTER, THE COUNTY IN WHICH THE
2 CENTER IS LOCATED OR IS TO BE LOCATED; OR

3 (2) FOR A REGIONAL CENTER, THE COUNTIES IN THE REGION.

4 REVISOR'S NOTE: This section is new language derived without substantive
5 change from former Art. 27, § 710.

6 In subsection (a)(1) of this section, the reference to "initiat[ing]" procedures
7 is substituted for the former, archaic reference to "inaugurat[ing]"
8 procedures, for clarity.

9 Also in subsection (a)(1) of this section, the former reference to a center "in
10 a county or multicounty region" is deleted as surplusage in light of the
11 reference to a "center or regional center".

12 In subsection (a)(3) of this section, the reference to the county in which "a
13 site" is proposed is substituted for the former reference to the county in
14 which "one or more sites" are proposed in light of Art. 1, § 8 of the Code,
15 which provides that the singular includes the plural unless that
16 construction is unreasonable.

17 The Correctional Services Article Review Committee notes, for
18 consideration by the General Assembly, that former Art. 27, § 710(a), which
19 is revised in subsection (a)(3) of this section, required the "county
20 governing body" to hold at least one public hearing in the county in which
21 a site is proposed. The Committee is uncertain as to the meaning of the
22 term "county governing body" in the context of a regional center. Was this
23 reference intended to require the governing bodies of each of the counties
24 in a region to hold a hearing in the county in which the site is proposed?
25 Alternatively, was this intended to require only the governing body of the
26 county in which the site is proposed to hold a hearing? The Committee
27 believes that the later interpretation is correct. If the General Assembly
28 intended the former interpretation, the General Assembly may wish to
29 amend subsection (a)(3) of this section accordingly.

30 In subsection (b)(1)(i) of this section, the reference to "other lawful
31 manner" is substituted for the former reference to "otherwise" to clarify
32 that the county may not illegally obtain facilities.

33 Also in subsection (b)(1)(i) of this section, the former reference to sites "for
34 facilities" is deleted as implicit in the reference to a "site".

35 In subsection (b)(2)(i) of this section, the former reference to the Secretary's
36 determination that there is a need "in the county" for the center is deleted
37 as implicit in the reference to the need "for the center".

38 In subsection (c) of this section, the former statement that the authority
39 granted by this subsection is "an extension of the authority granted in
40 subsection (b)" is deleted as implicit in the introductory language of this

1 subsection, which provides that the authority granted by this subsection is
2 "[s]ubject to ... the authority granted under subsection (b) of this section".

3 In subsection (d) of this section, the reference to a center "acquired by [a
4 county] under this subsection (b)" is deleted as implicit in the reference to
5 a "center".

6 In subsection (f)(1) of this section, the reference to "counties in a region"
7 that are in default is added to state expressly that which was formerly only
8 implied in the reference to a "county" that is in default, i.e., the Secretary
9 has the same authority when counties in a region default on their duties
10 with regard to a regional center as when a single county defaults on its
11 duties with regard to a center. Similarly, the reference to the Secretary's
12 authority to recommend a site for a "regional center" is added to state
13 expressly that which was formerly only implied in the reference to the
14 Secretary's authority to recommend a site for a "center".

15 In subsection (f)(2) of this section, the reference to the authority of the
16 Board of Public Works to "approve" a site for a regional center is deleted as
17 implicit in subsection (f)(4) of this section, under which the Board may
18 approve any site that is recommended by the Secretary.

19 Defined terms: "Center" § 11-301

20 "County" § 1-101

21 "Regional center" § 11-301

22 "Secretary" § 1-101

23 11-308. COSTS -- START-UP.

24 (A) STATE SHARE.

25 THE STATE SHALL PAY ALL OF THE COSTS ASSOCIATED WITH THE START-UP OF
26 A CENTER.

27 (B) AGREEMENT.

28 THE COUNTY OR COUNTIES IN A REGION AND THE SECRETARY SHALL
29 DETERMINE THE START-UP COSTS BY AGREEMENT BEFORE THE COUNTY OR
30 COUNTIES IN A REGION MAY BEGIN ANY ACTIVITY RELATED TO PLANNING,
31 ACQUISITION, CONSTRUCTION, OR RENOVATION OF THE CENTER FOR WHICH THE
32 COUNTY OR COUNTIES IN A REGION DESIRE REIMBURSEMENT.

33 (C) ALLOWABLE COSTS.

34 START-UP COSTS MAY INCLUDE COSTS FOR:

35 (1) CONSULTATION FEES;

36 (2) PERSONNEL;

- 1 (3) EQUIPMENT;
- 2 (4) INITIAL TRAINING FOR STAFF; AND
- 3 (5) ANY OTHER SERVICES RELATED TO THE START-UP OF THE CENTER.

4 REVISOR'S NOTE: This section is new language derived without substantive
5 change from former Art. 27, § 708(d).

6 In subsection (a) of this section, the former reference to "the Secretary ...
7 establish[ing] the need for a center" is deleted as implicit because, under §
8 11-307 of this subtitle, counties are authorized to establish a center only if
9 the Secretary has certified the need for a center.

10 In subsection (b) of this section, the references to "counties in a region" are
11 added to state expressly that which was formerly only implied in the
12 references to "county", i.e., for a regional center, the Secretary is required
13 to make a joint determination of start-up costs with the counties in the
14 region before the counties begin any activity for which the counties desire
15 reimbursement.

16 Defined terms: "Center" § 11-301

17 "County" § 1-101

18 "Secretary" § 1-101

19 11-309. SAME -- ACQUISITION, CONSTRUCTION, AND RENOVATION.

20 (A) STATE SHARE.

21 THE STATE SHALL PAY ALL OF THE APPROVED ACQUISITION, CONSTRUCTION,
22 AND RENOVATION COSTS, INCLUDING ARCHITECTURAL SERVICES AND CAPITAL
23 EQUIPMENT, IN EXCESS OF AVAILABLE FEDERAL FUNDS.

24 (B) REGULATIONS.

25 WITH THE APPROVAL OF THE BOARD OF PUBLIC WORKS, THE SECRETARY
26 SHALL ADOPT REGULATIONS THAT SPECIFY WHICH COSTS ARE APPROVED COSTS.

27 REVISOR'S NOTE: This section is new language derived without substantive
28 change from former Art. 27, § 710B(a).

29 In subsection (a) of this section, the former reference to a center that is
30 "acquired, constructed, or renovated pursuant to § 710(b), (d), (e), or (f) and
31 in accordance with this section" is deleted as implicit in the reference to a
32 "center".

33 In subsection (b) of this section, the former requirement that regulations
34 be adopted "in accordance with Title 10, Subtitle 1 of the State
35 Government Article" is deleted as implicit in the requirement to adopt
36 regulations. All Executive Branch units must comply with Title 10,

1 Subtitle 1 of the State Government Article, which sets forth the
2 requirements governing the proposal and adoption of regulations,
3 including publication in the Maryland Register and review by the Joint
4 Committee on Administrative, Executive, and Legislative Review.

5 Defined term: "Secretary" § 1-101

6 11-310. SAME -- OPERATION.

7 (A) STATE SUBSIDY -- IN GENERAL.

8 (1) SUBJECT TO SUBSECTION (B) OF THIS SECTION, THE STATE SHALL
9 ENTER INTO AN AGREEMENT WITH THE COUNTY OR COUNTIES IN A REGION TO
10 PROVIDE A STATE SUBSIDY TO PAY ALL APPROVED OPERATING COSTS FOR A CENTER
11 THAT EXCEED THE SUM OF AVAILABLE FEDERAL FUNDS AND INMATE
12 CONTRIBUTIONS FOR ROOM AND BOARD.

13 (2) WITH THE APPROVAL OF THE BOARD OF PUBLIC WORKS, THE
14 SECRETARY SHALL ADOPT REGULATIONS THAT:

15 (I) SPECIFY WHICH COSTS ARE APPROVED OPERATING COSTS; AND

16 (II) INCLUDE AS APPROVED OPERATING COSTS ALL REASONABLE
17 OPERATING EXPENSES NECESSARY TO ENSURE THAT A CENTER MEETS THE
18 MINIMUM STANDARDS ADOPTED BY THE SECRETARY UNDER § 11-305 OF THIS
19 SUBTITLE.

20 (3) A COUNTY OR THE COUNTIES IN A REGION MAY NOT BEGIN TO
21 CONSTRUCT OR RENOVATE A CENTER UNTIL THE COUNTY OR COUNTIES AND THE
22 SECRETARY NEGOTIATE AND ENTER INTO AN AGREEMENT REGARDING THE STATE
23 SUBSIDY FOR APPROVED OPERATING COSTS.

24 (B) DETERMINATION OF SUBSIDY.

25 THE STATE SUBSIDY SHALL BE DETERMINED AS FOLLOWS:

26 (1) THE APPROVED OPERATING COSTS THAT EXCEED THE SUM OF
27 AVAILABLE FEDERAL FUNDS AND INMATE CONTRIBUTIONS FOR ROOM AND BOARD
28 SHALL BE DIVIDED BY 365 TO OBTAIN THE PER DIEM COST;

29 (2) THE PER DIEM COST SHALL BE DIVIDED ON A DAILY BASIS BY THE
30 NUMBER OF INMATES CURRENTLY RESIDING IN THE CENTER TO OBTAIN THE PER
31 DIEM PER PERSON COST;

32 (3) THE AMOUNT OF THE STATE SUBSIDY SHALL BE THE PER DIEM PER
33 PERSON COST TIMES THE NUMBER OF INMATES CURRENTLY RESIDING IN THE
34 CENTER EACH DAY WHO, UNDER §§ 11-316 AND 11-317 OF THIS SUBTITLE:

35 (I) HAVE BEEN PLACED IN THE CENTER UNDER A SENTENCE OF
36 MORE THAN 90 DAYS; OR

1 (II) HAVE BEEN TRANSFERRED TO THE CENTER.

2 (C) PAYMENT OF SUBSIDY.

3 (1) THE STATE SUBSIDY SHALL BE PAID AT LEAST QUARTERLY.

4 (2) THE BOARD OF PUBLIC WORKS MAY DETERMINE THAT THE STATE
5 SUBSIDY SHALL BE PAID MORE OFTEN THAN QUARTERLY.

6 (D) FEDERAL FUNDS.

7 (1) A COUNTY MAY ACCEPT AND USE FEDERAL FUNDS SPECIFICALLY
8 DESIGNATED TO FINANCE PROGRAMS OR STAFF IN EXCESS OF THE MINIMUM STATE
9 STANDARDS ADOPTED BY THE SECRETARY UNDER § 11-305 OF THIS SUBTITLE.

10 (2) AS LONG AS THE SPECIFICALLY DESIGNATED FEDERAL FUNDS ARE
11 USED FOR PROGRAMS OR STAFF IN EXCESS OF THE MINIMUM STATE STANDARDS,
12 THE STATE SUBSIDY MAY NOT BE REDUCED BECAUSE OF THE SPECIFICALLY
13 DESIGNATED FEDERAL FUNDS.

14 REVISOR'S NOTE: This section is new language derived without substantive
15 change from former Art. 27, § 710B(b), (c), and (d).

16 In subsection (a)(1) of this section, the limitation "[s]ubject to subsection
17 (b) of this section" is added for clarity. The State is required to provide a
18 subsidy only for those inmates specified in subsection (b) of this section.

19 Also in subsection (a)(1) of this section, the reference to a county or
20 counties "in a region" is added for clarity and consistency within this
21 subtitle.

22 Also in subsection (a)(1) of this section, the former reference to the State
23 providing a State subsidy "in addition" to paying the costs specified in §
24 11-309 of this subtitle is deleted as surplusage.

25 Also in subsection (a)(1) of this section, the reference to inmate
26 contributions "for room and board" is added for consistency with subsection
27 (b)(1) of this section.

28 In subsection (a)(2) of this section, the former requirement that regulations
29 be adopted "in accordance with Title 10, Subtitle 1 of the State
30 Government Article" is deleted as implicit in the requirement to adopt
31 regulations. All Executive Branch units must comply with Title 10,
32 Subtitle 1 of the State Government Article, which sets forth the
33 requirements governing the proposal and adoption of regulations,
34 including publication in the Maryland Register and review by the Joint
35 Committee on Administrative, Executive, and Legislative Review.

36 In subsection (b)(1) of this section, the requirement that the approved
37 operating costs be "paid by the State" is deleted in light of subsection (a)(1)

1 of this section, which requires the State to pay all approved operating costs
2 for a center that exceed the sum of available federal funds and inmate
3 contributions. Also subsection (b)(3) of this section establishes the exact
4 amount of the State subsidy.

5 Also in subsection (b)(1) of this section, the requirement that the approved
6 operating costs "shall be divided by 365 to obtain the per diem cost" is
7 added to state expressly that which was only implied in the reference to
8 "[t]his per diem" in former Art. 27, § 710B(2). The term "per diem" implies
9 that there has been a division of the operating costs by the number of days
10 in a year.

11 In subsection (b)(3) of this section, the former reference to the per diem per
12 person cost "in excess of available federal funds and inmate contributions"
13 is deleted as unnecessary in light of subsection (b)(1) of this section, which
14 establishes the manner of calculating "the per diem per person cost".

15 The Correctional Services Article Review Committee notes, for
16 consideration by the General Assembly, that subsection (b)(3) of this
17 section makes a distinction between inmates who, under §§ 11-316 and
18 11-317 of this subtitle, "have been placed in [a] center under a sentence of
19 more than 90 days" or "have been transferred to [a] center". However, in
20 light of the language of §§ 11-316 and 11-317 of this subtitle, the
21 Committee is uncertain as to the meaning of this distinction. Under §
22 11-316 of this subtitle, the Commissioner of Correction has authority
23 under certain circumstances to place an inmate of a State correctional
24 facility in a center. Under § 11-317 of this subtitle, a court has authority
25 under certain circumstances to place an inmate of a local correctional
26 facility in a center. Both of these sections seem to relate to the "transfer" of
27 an individual to a center -- either from a State correctional facility (§
28 11-316) or a local correctional facility (§ 11-317). Neither of these sections
29 makes a distinction based on "a sentence of more than 90 days". In
30 practice, the Department of Public Safety and Correctional Services
31 interprets subsection (b)(3) as follows: (1) the reference to inmates who
32 "have been placed in [a] center under a sentence of more than 90 days"
33 means inmates who have been sentenced to serve 90 days or more in a
34 local correctional facility and have been placed in a center by a judge under
35 § 11-317 of this subtitle; and (2) the reference to inmates who "have been
36 transferred to [a] center" means inmates who have been placed in a center
37 by the Commissioner of Correction under § 11-316 of this subtitle. The
38 General Assembly may wish to amend subsection (b)(3) of this section to
39 reflect current practice or to otherwise clarify the meaning of this
40 provision.

41 In subsection (d)(2) of this section, the reference to "programs or staff in
42 excess of the minimum State standards" is substituted for the former
43 reference to "expanded programs or staff" for consistency with paragraph
44 (1) of this subsection.

1 Defined terms: "Center" § 11-301

2 "County" § 1-101

3 "Inmate" § 1-101

4 "Secretary" § 1-101

5 11-311. OPERATION.

6 (A) OPERATION BY COUNTY.

7 (1) A CENTER THAT IS ACQUIRED, CONSTRUCTED, OR RENOVATED BY A
8 COUNTY AS AUTHORIZED UNDER § 11-307(B) OF THIS SUBTITLE SHALL BE OPERATED
9 BY THE COUNTY.

10 (2) THE DIRECTOR, STAFF, AND OTHER EMPLOYEES OF THE CENTER
11 SHALL BE EMPLOYEES OF THE COUNTY.

12 (B) OPERATION OF REGIONAL CENTER.

13 (1) A REGIONAL CENTER THAT IS ACQUIRED, CONSTRUCTED, OR
14 RENOVATED BY THE COUNTIES IN A REGION AS AUTHORIZED UNDER § 11-307(C) OF
15 THIS SUBTITLE SHALL BE OPERATED IN ACCORDANCE WITH THE AGREEMENT
16 ENTERED INTO BY THE COUNTIES.

17 (2) THE DIRECTOR, STAFF, AND OTHER EMPLOYEES OF THE REGIONAL
18 CENTER SHALL BE EMPLOYEES OF ONE OR MORE OF THE COUNTIES AS PROVIDED IN
19 THE AGREEMENT.

20 (C) OPERATION BY THE STATE.

21 (1) A CENTER THAT IS ACQUIRED, CONSTRUCTED, OR RENOVATED BY
22 THE STATE ON THE DEFAULT OF A COUNTY OR COUNTIES IN A REGION UNDER §
23 11-307(F) OF THIS SUBTITLE SHALL BE OPERATED BY THE STATE.

24 (2) THE DIRECTOR, STAFF, AND OTHER EMPLOYEES OF THE CENTER
25 SHALL BE EMPLOYEES OF THE STATE.

26 (D) CONTRACTS.

27 SUBJECT TO TERMS AND CONDITIONS APPROVED BY THE SECRETARY, A
28 COUNTY, THE COUNTIES IN A REGION, OR THE STATE MAY PROVIDE FOR THE
29 OPERATION OF A CENTER BY CONTRACT WITH A NONPUBLIC PERSON.

30 REVISOR'S NOTE: This section is new language derived without substantive
31 change from the first, second, fourth, and fifth sentences of former Art. 27,
32 § 710A(a).

33 In subsection (b)(1) of this section, the reference to counties "in a region" is
34 added for clarity and consistency within this subtitle.

35 Also in subsection (b)(1) of this section, the reference to the "counties in a
36 region" is substituted for the former reference to "two or more counties" for

1 consistency within this subtitle.

2 In subsection (d) of this section, the reference to counties "in a region" is
3 substituted for the former reference to "participating counties" for
4 consistency within this subtitle.

5 Defined terms: "Center" § 11-301

6 "County" § 1-101

7 "Person" § 1-101

8 "Regional center" § 11-301

9 "Secretary" § 1-101

10 11-312. COMMUNITY ADVISORY BOARD.

11 (A) IN GENERAL.

12 A CENTER SHALL HAVE A COMMUNITY ADVISORY BOARD.

13 (B) MEMBERS.

14 THE COUNTY OPERATING THE CENTER SHALL DETERMINE THE ADVISORY
15 FUNCTION, COMPOSITION, AND APPOINTMENT OF MEMBERS OF THE COMMUNITY
16 ADVISORY BOARD.

17 (C) DIRECTOR TO CONSULT WITH COMMUNITY ADVISORY BOARD.

18 THE DIRECTOR OF THE CENTER SHALL CONSULT WITH AND GENERALLY
19 INFORM THE COMMUNITY ADVISORY BOARD PERIODICALLY CONCERNING INMATES
20 IN THE CENTER.

21 REVISOR'S NOTE: This section is new language derived without substantive
22 change from former Art. 27, §§ 710A(b) and 710C(d).

23 In subsection (a) of this section, the former reference to a center, "whether
24 county, multicounty, or State," is deleted as implicit in the reference to a
25 "center".

26 In subsection (b) of this section, the reference to the "county" is substituted
27 for the former reference to the "local jurisdiction" for consistency within
28 this subtitle.

29 The Correctional Services Article Review Committee notes, for
30 consideration by the General Assembly, that subsection (b) of this section
31 does not seem to apply to regional centers or to centers that are operated
32 by the State by reason of default. The General Assembly may wish to
33 amend this provision to require, in the case of a regional center, that the
34 advisory function, composition, and appointment of members be in
35 accordance with the agreement between the counties or be determined by
36 the county in which the center is located. The General Assembly may also
37 wish to amend this provision to require, in the case of a State-operated

1 center, that the advisory function, composition, and appointment of
2 members be determined by the State.

3 Defined terms: "Center" § 11-301

4 "County" § 1-101

5 "Inmate" § 1-101

6 11-313. APPOINTMENT AND REMOVAL OF DIRECTOR AND ASSISTANT DIRECTOR;
7 CECIL COUNTY.

8 (A) CENTER OPERATED BY CHARTER COUNTY.

9 IF A CENTER IS OPERATED BY A COUNTY IN ACCORDANCE WITH § 11-311(A) OF
10 THIS SUBTITLE AND THE COUNTY IS A CHARTER COUNTY, THE DIRECTOR AND ANY
11 ASSISTANT DIRECTOR SHALL BE APPOINTED AND REMOVED BY THE CHIEF
12 EXECUTIVE OFFICER OF THE COUNTY GOVERNMENT WITH THE ADVICE OF THE
13 COMMUNITY ADVISORY BOARD AND THE ADVICE AND CONSENT OF THE
14 COMMISSIONER.

15 (B) CENTER OPERATED BY NONCHARTER COUNTY.

16 EXCEPT AS PROVIDED IN SUBSECTION (E) OF THIS SECTION, IF A CENTER IS
17 OPERATED BY A COUNTY IN ACCORDANCE WITH § 11-311(A) OF THIS SUBTITLE AND
18 THE COUNTY IS NOT A CHARTER COUNTY SUBJECT TO ARTICLE XI-A OF THE
19 MARYLAND CONSTITUTION, THE DIRECTOR AND ANY ASSISTANT DIRECTOR SHALL
20 BE APPOINTED AND REMOVED BY THE COUNTY COMMISSIONERS WITH THE ADVICE
21 OF THE COMMUNITY ADVISORY BOARD AND THE ADVICE AND CONSENT OF THE
22 COMMISSIONER.

23 (C) REGIONAL CENTER.

24 IF A CENTER IS A REGIONAL CENTER OPERATED BY AGREEMENT OF THE
25 COUNTIES IN THE REGION IN ACCORDANCE WITH § 11-311(B) OF THIS SUBTITLE, THE
26 DIRECTOR AND ANY ASSISTANT DIRECTOR SHALL BE APPOINTED AND REMOVED BY
27 THE OFFICIALS OF THE COUNTY GOVERNMENTS IN ACCORDANCE WITH THE
28 REGIONAL AGREEMENT AND WITH THE ADVICE OF THE COMMUNITY ADVISORY
29 BOARD AND THE ADVICE AND CONSENT OF THE COMMISSIONER.

30 (D) STATE CENTER.

31 IF A CENTER IS OPERATED BY THE STATE IN ACCORDANCE WITH § 11-311(C) OF
32 THIS SUBTITLE, THE DIRECTOR AND ANY ASSISTANT DIRECTOR SHALL BE
33 APPOINTED AND REMOVED BY THE COMMISSIONER WITH THE ADVICE OF THE
34 COMMUNITY ADVISORY BOARD.

35 (E) CECIL COUNTY.

36 IF A CENTER IS OPERATED BY CECIL COUNTY:

37 (1) THE SHERIFF SHALL APPOINT A CENTER DIRECTOR;

1 (2) THE DIRECTOR SERVES AT THE PLEASURE OF THE SHERIFF; AND

2 (3) THE SHERIFF MAY REMOVE THE DIRECTOR AT ANY TIME WITH OR
3 WITHOUT CAUSE.

4 REVISOR'S NOTE: This section is new language derived without substantive
5 change from former Art. 27, § 710A(d).

6 Throughout this section, the references to a "center operated by a county in
7 accordance with § 11-311(a) of this subtitle", a "regional center operated ...
8 in accordance with § 11-311(b) of this subtitle", and a "center operated by
9 the State in accordance with § 11-311(c) of this subtitle", respectively, are
10 substituted for the former references to "county center", "regional center",
11 and "State center", respectively, for consistency within this subtitle.

12 In subsection (a) of this section, the reference to "charter county" is added
13 for clarity to distinguish these counties from those that are not charter
14 counties.

15 In subsection (b) of this section, the reference to a "county [that] is not a
16 charter county subject to Article XI-A of the Maryland Constitution" is
17 substituted for the former reference to a "noncharter county" for clarity.

18 In subsection (c) of this section, the reference to a center "operated by
19 agreement of the counties" is added to distinguish regional centers
20 operated by counties from regional centers operated by the State.

21 Also in subsection (c) of this section, the former reference to county
22 governments "within the region" is deleted as implicit in the reference to
23 "county governments".

24 In subsection (e) of this section, the references to the center "director" are
25 substituted for the former references to the center "administrator" for
26 consistency within this subtitle. See §§ 11-316, 11-317, 11-318, 11-319,
27 and 11-320.

28 Defined terms: "Center" § 11-301

29 "Commissioner" § 11-301

30 "County" § 1-101

31 "Regional center" § 11-301

32 11-314. CONTRACTS.

33 SUBJECT TO APPLICABLE BUDGETARY RULES, REGULATIONS, AND
34 PROCEDURES AND ANY APPLICABLE REGIONAL AGREEMENT, THE STATE, A COUNTY,
35 OR A BODY CREATED IN ACCORDANCE WITH A REGIONAL AGREEMENT MAY ENTER
36 INTO CONTRACTS AND TAKE OTHER APPROPRIATE ACTIONS NECESSARY OR
37 DESIRABLE TO CARRY OUT THIS SUBTITLE.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 27, § 710A(h).

3 In this section, the former reference to carrying out this subtitle "with
4 respect to centers operated by them" is deleted as implicit in the reference
5 to carrying out "this subtitle".

6 Defined term: "County" § 11-301

7 11-315. PROGRAMS; COMMUNITY USE OF FACILITIES.

8 (A) PROGRAMS.

9 (1) A CENTER SHALL:

10 (I) HAVE A PROPERLY MONITORED WORK RELEASE PROGRAM;
11 AND

12 (II) MAKE ARRANGEMENTS FOR APPROPRIATE COUNSELING,
13 EDUCATIONAL, AND REHABILITATIVE PROGRAMS AND SERVICES.

14 (2) A CENTER MAY ARRANGE FOR COUNSELING, EDUCATIONAL, AND
15 REHABILITATIVE PROGRAMS AND SERVICES BY A PURCHASE OF SERVICE
16 AGREEMENT OR CONTRACT WITH A PERSON OR GOVERNMENTAL UNIT.

17 (3) TO THE EXTENT PRACTICABLE, A CENTER SHALL UTILIZE
18 APPROPRIATE PROGRAMS AND SERVICES THAT EXIST IN THE COMMUNITY.

19 (4) A CENTER MAY ESTABLISH, DIRECT, AND IMPLEMENT A
20 PRERELEASE PROGRAM.

21 (B) COMMUNITY USE OF FACILITIES.

22 THE RECREATIONAL, EDUCATIONAL, VOCATIONAL, AND OTHER FACILITIES OF
23 A CENTER MAY BE MADE AVAILABLE FOR USE BY THE COMMUNITY.

24 REVISOR'S NOTE: This section is new language derived without substantive
25 change from former Art. 27, § 710A(e) and (g) and the third sentence of (a).

26 In subsection (a)(2) of this section, the former reference to the authority to
27 arrange for other persons or entities to "furnish" programs and services is
28 deleted as implicit in the reference to "a purchase of service agreement or
29 contract".

30 Also in subsection (a)(2) of this section, the former reference to the
31 authority of a center to arrange for a "firm, [or] organization" to furnish
32 programs and services is deleted as included in the reference to a "person".

33 Also in subsection (a)(2) of this section, the reference to "counseling,
34 educational, and" rehabilitative programs is added for consistency with
35 subsection (a)(1)(ii) of this section.

1 Defined terms: "Center" § 11-301

2 "Person" § 1-101

3 11-316. PLACEMENT OF INDIVIDUALS SENTENCED TO OR DETAINED IN STATE
4 CORRECTIONAL SYSTEM.

5 (A) IN GENERAL.

6 EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, THE
7 COMMISSIONER MAY PLACE AN INMATE IN A CENTER IF THE INMATE:

8 (1) IS A RESIDENT OF:

9 (I) THE COUNTY IN WHICH THE CENTER IS LOCATED; OR

10 (II) FOR A REGIONAL CENTER, ONE OF THE COUNTIES IN THE
11 REGION;

12 (2) HAS:

13 (I) LESS THAN 6 MONTHS REMAINING ON A SENTENCE;

14 (II) LESS THAN 6 MONTHS REMAINING UNTIL A DETERMINED
15 PAROLE DATE; OR

16 (III) A SENTENCE OF 3 YEARS OR LESS; AND

17 (3) HAS BEEN SCREENED BY A CENTER STAFF MEMBER AND APPROVED
18 BY THE CENTER DIRECTOR AS PROVIDED UNDER SUBSECTION (B) OF THIS SECTION.

19 (B) SCREENING.

20 (1) A CENTER STAFF MEMBER SHALL SCREEN AN INMATE FOR
21 PLACEMENT IN A CENTER.

22 (2) AFTER A REVIEW OF THE SCREENING DATA, THE CENTER DIRECTOR
23 MAY APPROVE A PLACEMENT BASED ON SCREENING STANDARDS THAT ARE
24 ESTABLISHED BY THE COMMUNITY ADVISORY BOARD, THE CENTER DIRECTOR, AND
25 THE COMMISSIONER.

26 (3) THE SCREENING STANDARDS SHALL INCLUDE A PRESENTENCE
27 INVESTIGATION REPORT IF AVAILABLE AND A COMPLETE RECORD OF PREVIOUS
28 CONVICTIONS.

29 (C) CECIL COUNTY.

30 (1) THIS SUBSECTION APPLIES ONLY TO CECIL COUNTY.

31 (2) THE COMMISSIONER MAY PLACE AN INMATE IN A CENTER
32 OPERATED BY CECIL COUNTY IF THE INMATE:

1 (I) HAS BEEN COMMITTED BY THE COURT TO THE CUSTODY OF
2 THE COMMISSIONER;

3 (II) IS A LEGAL RESIDENT OF CECIL COUNTY;

4 (III) HAS:

5 1. LESS THAN 6 MONTHS REMAINING ON A SENTENCE;

6 2. LESS THAN 6 MONTHS REMAINING UNTIL A DETERMINED
7 PAROLE DATE; OR

8 3. A SENTENCE OF 3 YEARS OR LESS; AND

9 (IV) HAS BEEN SCREENED BY A CENTER STAFF MEMBER AND
10 APPROVED BY THE CENTER DIRECTOR IN ACCORDANCE WITH SUBSECTION (B) OF
11 THIS SECTION.

12 (3) THE COURT MAY RECOMMEND THAT AN INMATE BE PLACED IN A
13 CENTER.

14 REVISOR'S NOTE: This section is new language derived without substantive
15 change from former Art. 27, § 710C(a) and (e).

16 In the introductory language of subsections (a) and (c)(2) and subsections
17 (b)(1) and (c)(3) of this section, the references to the defined term "inmate"
18 are substituted for the former references to "person" for consistency
19 throughout this article. See, e.g., §§ 11-310 and 11-317 of this subtitle; see
20 also General Revisor's Note to this article.

21 In subsection (a)(1) of this section, the former reference to a person who is
22 "considered" a resident of a county is deleted as surplusage.

23 In subsection (b)(2) of this section, the authority of the director to approve
24 a "placement" is substituted for the former reference to the approval of a
25 "transfer" for consistency with subsection (a) of this section.

26 In subsection (c)(1) of this section, the former reference to
27 "notwithstanding subsection (a) of this section" is deleted to avoid
28 interlocking exceptions in light of the introductory clause, "[e]xcept as
29 provided in subsection (c) of this section" in subsection (a) of this section.

30 In the introductory language of subsection (c)(2) of this section, the
31 reference to "a center operated by Cecil County" is substituted for the
32 former reference to "the center" to state expressly that which was only
33 implied in the former law.

34 In subsection (c)(2)(iv) of this section, the reference to an inmate being
35 "screened by a center staff member and approved by the center director in
36 accordance with subsection (b) of this section" is substituted for former Art.

1 27, § 710C(e)(1)(iv) to avoid redundancy in light of subsection (b) of this
2 section.

3 Defined terms: "Center" § 11-301

4 "Commissioner" § 11-301

5 "County" § 1-101

6 "Inmate" § 1-101

7 "Regional center" § 11-301

8 11-317. PLACEMENT OF INDIVIDUALS SENTENCED TO OR DETAINED IN LOCAL
9 CORRECTIONAL SYSTEM.

10 (A) SCOPE.

11 THIS SECTION APPLIES TO INMATES TRANSFERRED TO A CENTER OR REGIONAL
12 CENTER FROM A LOCAL CORRECTIONAL FACILITY.

13 (B) IN GENERAL.

14 (1) A CENTER DIRECTOR MAY RECOMMEND TO THE COURT THAT AN
15 INMATE IN A LOCAL CORRECTIONAL FACILITY BE PLACED IN A CENTER BASED ON
16 LOCALLY ESTABLISHED PROCEDURES.

17 (2) IF A CENTER DIRECTOR MAKES A RECOMMENDATION AS PROVIDED
18 UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE JUDGE ORDERING THE
19 CONFINEMENT, OR, IF THAT JUDGE IS UNABLE TO ACT, ANOTHER JUDGE OF THE
20 COURT THAT COMMITTED THE INMATE MAY APPROVE THE PLACEMENT OF THE
21 INMATE IN A CENTER.

22 (C) RELEASE OF INMATE.

23 (1) THE CENTER DIRECTOR MAY MAKE A RECOMMENDATION TO A
24 COURT THAT AN INMATE IN A CENTER BE RELEASED FROM CUSTODY.

25 (2) THE RECOMMENDATION SHALL BE BASED ON A REPORT OF THE
26 INMATE'S PERFORMANCE IN THE CENTER.

27 (3) IF A CENTER DIRECTOR RECOMMENDS THE RELEASE OF AN INMATE,
28 THE JUDGE WHO ORDERED THE CONFINEMENT, OR IF THAT JUDGE IS UNABLE TO
29 ACT, ANOTHER JUDGE OF THE COURT THAT COMMITTED THE INMATE MAY ORDER
30 THE RELEASE OF THE INMATE FROM CUSTODY.

31 (D) REVOCATION OF PARTICIPATION.

32 (1) SUBJECT TO § 11-318 OF THIS SUBTITLE, THE CENTER DIRECTOR
33 MAY REVOKE THE PARTICIPATION OF AN INMATE.

34 (2) (I) IF THE REMAINING TERM OF CONFINEMENT OF THE INMATE
35 EXCEEDS 6 MONTHS, THE COURT THAT COMMITTED THE INMATE MAY DESIGNATE
36 THE DIVISION OF CORRECTION AS THE AGENCY OF CUSTODY.

1 (II) THE DECISION OF THE JUDGE SHALL BE BASED ON A REPORT
2 OF THE CENTER DIRECTOR TO THE JUDGE THAT SHOWS CAUSE FOR REVOCATION.

3 REVISOR'S NOTE: Subsection (a) of this section is new language added to
4 state expressly that which was only implied in former Art. 27, § 710C.

5 Subsections (b) through (d) of this section are new language derived
6 without substantive change from former Art. 27, § 710C(c).

7 Throughout this section, references to "inmate" and "inmate's" are
8 substituted for the former references to "person" and "person's",
9 respectively, for consistency throughout this article. See, e.g., §§ 11-310
10 and 11-316 of this subtitle; see also General Revisor's Note to this article.

11 In subsection (b)(2) of this section, the reference to "placement" of an
12 inmate in a center is substituted for the former reference to "transfer" of an
13 inmate to a center for consistency with subsection (b)(1) of this section.

14 Also in subsection (b)(2) of this section, the former reference to placement
15 of an inmate in a center "at any time during the period of confinement" is
16 deleted in light of subsection (b)(1) of this section which provides that the
17 center director may recommend "[any] inmate in a local correctional
18 facility" for placement in a center.

19 In subsection (c)(2) of this section, the reference to the performance of the
20 inmate in the "center" is substituted for the former reference to the
21 performance of the inmate in the "program" for consistency within this
22 subtitle.

23 In subsection (d)(2)(i) of this section, the former reference to "the judge of"
24 the court that committed the inmate is deleted as unnecessary because
25 there was no reference to a particular judge of the court (e.g., the
26 sentencing judge) in the second sentence of former Art. 27, § 710C(c)(3).

27 The Correctional Services Article Review Committee notes, for
28 consideration by the General Assembly, that subsection (d)(2)(i) of this
29 section conflicts with § 9-104(b) of this article. Under former Art. 27, §
30 710C(c)(3), which is revised in subsection (d)(2)(i) of this section, a court
31 had authority to designate the Division of Correction as the agency of
32 custody when an inmate's term of confinement exceeded 6 months. Under
33 former Art. 27, § 690(c), which is revised in § 9-104(b) of this article, a
34 judge had authority to sentence to the jurisdiction of the Division of
35 Correction only if an inmate's sentence exceeded 12 months. Former Art.
36 27, § 710C(c)(3) was originally enacted in 1980. See Ch. 533, Acts of 1980.
37 At that time, the 6-month designation did not conflict with former Art. 27,
38 § 690(c), which, at that time, authorized a judge to sentence to the
39 jurisdiction of the Division of Correction only if an inmate's sentence
40 exceeded 3 months. See Art. 27, § 690(c) (1976 Replacement Volume and
41 1980 Supplement). However, when the 3-month designation in former Art.
42 27, § 690(c) was changed to a 12-month designation in 1986, no

1 corresponding change was made to former Art. 27, § 710(c)(3). See Ch. 128,
2 Acts of 1986. The General Assembly may wish to amend subsection (d)(2)(i)
3 of this section to authorize a court to designate the Division of Correction
4 as the agency of custody when an inmate's term of confinement exceeds 12
5 months.

6 Defined terms: "Center" § 11-301

7 "Division of Correction" § 1-101

8 "Inmate" § 1-101

9 "Local correctional facility" § 1-101

10 "Regional center" § 11-301

11 11-318. REVOCATION OF PARTICIPATION.

12 (A) ESTABLISHMENT OF TERMS AND CONDITIONS.

13 THE CENTER DIRECTOR SHALL ESTABLISH THE TERMS AND CONDITIONS OF
14 THE CENTER WITH THE ADVICE OF THE COMMUNITY ADVISORY BOARD.

15 (B) CONDITIONS JUSTIFYING REVOCATION.

16 THE CENTER DIRECTOR MAY REVOKE THE PARTICIPATION OF AN INMATE IN A
17 CENTER IF THE INMATE VIOLATES THE TERMS OR CONDITIONS OF THE CENTER.

18 REVISOR'S NOTE: This section is new language derived without substantive
19 change from former Art. 27, § 710C(b).

20 Defined terms: "Center" § 11-301

21 "Inmate" § 1-101

22 11-319. INMATES -- LEAVE; EARNINGS.

23 (A) LEAVE.

24 (1) IN ACCORDANCE WITH GUIDELINES DEVELOPED UNDER
25 PARAGRAPH (2) OF THIS SUBSECTION, THE CENTER DIRECTOR OR THE DIRECTOR'S
26 DESIGNEE MAY GRANT AN INMATE THE PRIVILEGE OF LEAVING THE CONFINES OF A
27 CENTER FOR THE FOLLOWING PURPOSES:

28 (I) EMPLOYMENT OR SEEKING EMPLOYMENT;

29 (II) EDUCATIONAL PROGRAMS;

30 (III) VOCATIONAL TRAINING;

31 (IV) COMMUNITY AND CIVIC ACTIVITIES;

32 (V) VOLUNTEER WORK;

33 (VI) ATHLETIC COMPETITION;

1 (VII) PERSONAL OR FAMILY VISITS; OR

2 (VIII) OTHER SIMILAR REHABILITATIVE ACTIVITIES.

3 (2) THE GUIDELINES FOR LEAVE SHALL BE DEVELOPED BY THE
4 COUNTY OR COUNTIES THAT OPERATE THE CENTER, REVIEWED BY THE COMMUNITY
5 ADVISORY BOARD, AND APPROVED BY THE SECRETARY.

6 (3) WHEN OUTSIDE THE CONFINES OF A CENTER, AN INMATE SHALL
7 CARRY, AT ALL TIMES, A COPY OF THE FORM SIGNED BY THE CENTER DIRECTOR OR
8 THE DIRECTOR'S DESIGNEE CONTAINING THE TERMS AND CONDITIONS GOVERNING
9 THE GRANT OF LEAVE.

10 (4) AN INMATE ON LEAVE SHALL BE DEEMED TO BE IN THE CUSTODY OF
11 THE CENTER TO THE SAME EXTENT, AND SUBJECT TO THE SAME SUPERVISION AND
12 CONTROL, AS AN INMATE ACTUALLY IN CONFINEMENT IN THE DIVISION OF
13 CORRECTION.

14 (5) AN INMATE WHO ESCAPES WHILE ON LEAVE UNDER THIS SECTION
15 IS SUBJECT TO THE PENALTIES ESTABLISHED UNDER ARTICLE 27, § 139 OF THE
16 CODE.

17 (B) COLLECTION AND DISPOSITION OF EARNINGS.

18 (1) THE CENTER DIRECTOR OR THE DIRECTOR'S DESIGNEE SHALL
19 COLLECT THE EARNINGS OF AN INMATE, LESS PAYROLL DEDUCTIONS REQUIRED BY
20 LAW.

21 (2) THE CENTER DIRECTOR OR THE DIRECTOR'S DESIGNEE SHALL KEEP
22 AN ACCURATE ACCOUNT OF THE EARNINGS OF AN INMATE.

23 (3) FROM THE EARNINGS OF AN INMATE, THE CENTER DIRECTOR MAY
24 DEDUCT:

25 (I) AN AMOUNT DETERMINED BY THE DIRECTOR TO BE THE COST
26 OF PROVIDING FOOD, LODGING, AND CLOTHING TO THE INMATE;

27 (II) ACTUAL AND NECESSARY FOOD, TRAVEL, AND OTHER
28 EXPENSES INCIDENTAL TO THE INMATE'S PARTICIPATION IN WORK RELEASE AND
29 REHABILITATION PROGRAMS;

30 (III) ANY AMOUNT REQUIRED BY COURT ORDER OR AGREEMENT OF
31 THE INMATE, AND NOT OTHERWISE DEDUCTED, FOR THE SUPPORT OF DEPENDENTS;
32 AND

33 (IV) COURT ORDERED RESTITUTION PAYMENTS.

34 (4) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS
35 PARAGRAPH, ANY REMAINING BALANCE SHALL BE CREDITED TO THE INMATE'S
36 ACCOUNT AND PAID TO THE INMATE ON RELEASE.

1 (II) IF APPROVED BY THE DIRECTOR, ANY REMAINING BALANCE
2 MAY BE PAID TO THE INMATE ON THE REQUEST OF THE INMATE.

3 REVISOR'S NOTE: This section is new language derived without substantive
4 change from former Art. 27, § 710A(f) and (i).

5 Throughout this section, the reference to the "center" director is added for
6 consistency within this subtitle.

7 In subsection (a)(1) and (3) of this section, the references to the "director's"
8 designee are added for consistency with subsection (b)(1) and (2) of this
9 section.

10 In subsection (a)(1) of this section, the defined term "center" is substituted
11 for the former reference to a "facility" for consistency within this subtitle.

12 In subsection (a)(2) of this section, the reference to the "county" or
13 "counties" operating the center is substituted for the former reference to
14 the "jurisdiction" operating the center because a regional center can be
15 operated by more than one county.

16 In subsection (a)(3) of this section, the reference to the "form" signed by the
17 director or the director's designee is added for consistency with § 3-305(b)
18 of this article, which establishes a similar requirement for inmates in the
19 prerelease unit for women.

20 The Correctional Services Article Review Committee notes, for
21 consideration by the General Assembly, that subsection (a)(5) of this
22 section is one of many provisions in this article that relates to inmates who
23 escape while legitimately outside the confines of a correctional facility
24 (e.g., while on work release, home detention, pretrial release, weekend
25 leave, compassionate leave, family leave, etc.). For a discussion of the
26 Committee's perspective on these provisions, see § 3-305(c) of this article
27 and accompanying Revisor's Note.

28 In subsection (b)(1) of this section, the former requirement that an
29 inmate's earnings be "surrendered to" the center director is deleted as
30 included in the requirement that the center director "collect" the inmate's
31 earnings.

32 In subsection (b)(1) and (2) of this section, the former reference to the
33 "authorized" designee of the director is deleted as implicit in the reference
34 to "designee".

35 In subsection (b)(3)(iii) of this section, the reference to an amount "not
36 otherwise deducted" is added to state expressly that which was only
37 implied in the former law, i.e., the center director or director's designee
38 may deduct money from the earnings of an inmate for the support of
39 dependents only if the money is not deducted from the inmate's earnings
40 through some other means.

1 The Correctional Services Article Review Committee notes, for
 2 consideration by the General Assembly, that subsection (b) of this section
 3 sets forth rules governing the disposition of an inmate's earnings. The
 4 Committee further notes that there are significant inconsistencies
 5 throughout this article in provisions governing the disposition of an
 6 inmate's earnings in different contexts. See, e.g., §§ 3-804, 3-807(e)(1),
 7 9-504(d), 9-512(b), 11-407(b), 11-604, 11-703(d)(4), 11-704(d), 11-705(i),
 8 11-706(b)(5), 11-708(b)(7), 11-711(g), 11-712(c)(5), 11-714(c)(4), 11-715(e),
 9 11-716(g), 11-717(e), 11-718(e), 11-719(b), 11-722(b), 11-724(g), and
 10 11-725(b) of this article. The General Assembly may wish to examine all of
 11 the relevant provisions and determine whether they should be changed to
 12 reflect a more consistent policy in this area.

13 Defined terms: "Center" § 11-301

14 "County" § 1-101

15 "Division of Correction" § 1-101

16 "Inmate" § 1-101

17 "Secretary" § 1-101

18 11-320. RELEASE OF PERSONAL INFORMATION OF INMATE.

19 (A) AUTHORITY OF DIRECTOR.

20 THE CENTER DIRECTOR OR THE DIRECTOR'S DESIGNEE MAY RELEASE
 21 PERSONAL INFORMATION ABOUT AN INMATE ON A "NEED TO KNOW" BASIS TO:

22 (1) ESSENTIAL COMMUNITY RESOURCES AND VOLUNTEER STAFF FOR
 23 THE PURPOSE OF OBTAINING EMPLOYMENT, TRAINING, EDUCATION, OR TREATMENT
 24 SERVICES FOR THE INMATE ON RELEASE; AND

25 (2) AN INDIVIDUAL WHO AGREES TO SPONSOR THE INMATE IN THE
 26 INDIVIDUAL'S HOME FOR AUTHORIZED FURLOUGHS.

27 (B) NOTICE TO INMATE.

28 THE INMATE SHALL BE INFORMED OF CONFIDENTIALITY REQUIREMENTS.

29 (C) WAIVER OF CONFIDENTIALITY.

30 THE STAFF OF THE CENTER SHALL REQUEST THAT THE INMATE WAIVE, IN
 31 WRITING, THE INMATE'S RIGHT OF CONFIDENTIALITY FOR THE PURPOSE OF
 32 IMPLEMENTING THIS SECTION.

33 REVISOR'S NOTE: This section is new language derived without substantive
 34 change from former Art. 27, § 710D.

35 Throughout this section, the references to an "inmate" are substituted for
 36 the former references to a "participant" for consistency within this subtitle.

37 In subsection (a) of this section, the reference to the "director's designee" is

1 substituted for the former reference to a "staff designee" for consistency
2 within this subtitle.

3 In subsection (a)(2) of this section, the reference to "inmate" is substituted
4 for the former reference to "releasee" for consistency within this section.

5 In subsection (c) of this section, the reference to "implementing this
6 section" is added to state expressly that which was only implied in the
7 former law.

8 Defined terms: "Center" § 11-301

9 "Inmate" § 1-101

10 SUBTITLE 4. CORRECTIONAL FARMS.

11 11-401. "GOVERNING BODY" DEFINED.

12 IN THIS SUBTITLE, "GOVERNING BODY" MEANS:

13 (1) THE COUNTY COUNCIL OF A COUNTY WITH A CHARTER FORM OF
14 GOVERNMENT ESTABLISHED UNDER ARTICLE XI-A OF THE MARYLAND
15 CONSTITUTION; OR

16 (2) THE BOARD OF COUNTY COMMISSIONERS OF ANY OTHER COUNTY.

17 REVISOR'S NOTE: This section is new language substituted for former Art. 25,
18 § 134. The revision clarifies that a county with any form of government
19 may be authorized to establish correctional farms under this subtitle, by
20 the use of the common reference to the new defined term "governing body".

21 Defined term: "County" § 1-101

22 11-402. SCOPE OF SUBTITLE.

23 THIS SUBTITLE DOES NOT APPLY TO FREDERICK, GARRETT, HARFORD,
24 HOWARD, WASHINGTON, AND WORCESTER COUNTIES.

25 REVISOR'S NOTE: This section is new language added to codify Section 2 of
26 Chapter 82 of the 1957 Laws of Maryland, which provides: "THAT THE
27 PROVISIONS HEREIN SHALL NOT APPLY TO FREDERICK,
28 GARRETT, HARFORD, HOWARD, WASHINGTON AND WORCESTER
29 COUNTIES." The former uncodified provision was referenced as an
30 Editor's Note to each former section of the former subtitle.

31 11-403. ESTABLISHMENT.

32 THE GOVERNING BODY OF A COUNTY MAY ESTABLISH A CORRECTIONAL FARM.

33 REVISOR'S NOTE: This section is new language derived without substantive
34 change from the first sentence of former Art. 25, § 128.

1 In this section and throughout this subtitle, the reference to "correctional"
 2 farm is substituted for the former reference to "prison" farm for
 3 consistency with terminology throughout the article referring to a
 4 "correctional facility" instead of a "prison".

5 Defined terms: "County" § 1-101

6 "Governing body" § 11-401

7 11-404. ACQUISITION OF PROPERTY; BUDGET.

8 (A) ACQUISITION OF PROPERTY.

9 A GOVERNING BODY MAY:

10 (1) PURCHASE OR OTHERWISE ACQUIRE REAL OR PERSONAL PROPERTY
 11 NEEDED FOR A CORRECTIONAL FARM; AND

12 (2) PROVIDE FOR THE DISPOSITION OR RETENTION OF EXISTING LOCAL
 13 CORRECTIONAL FACILITIES IN THE COUNTY.

14 (B) BUDGET.

15 (1) AFTER CONSIDERING THE PROBABLE INCOME FROM THE
 16 CORRECTIONAL FARM PROPERTY, A GOVERNING BODY SHALL PREPARE AN ANNUAL
 17 BUDGET OF PROPOSED EXPENDITURES FOR THE:

18 (I) CARE, OPERATION, AND MAINTENANCE OF THE PROPERTY;
 19 AND

20 (II) FEEDING OF INMATES.

21 (2) A BUDGET PREPARED AS PROVIDED UNDER PARAGRAPH (1) OF THIS
 22 SUBSECTION SHALL BE INCLUDED IN THE COUNTY'S ANNUAL BUDGET.

23 (3) ANY LEVY IMPOSED FOR THE BUDGET PREPARED AS PROVIDED
 24 UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE COLLECTED AS PART OF THE
 25 COUNTY TAX.

26 REVISOR'S NOTE: This section is new language derived without substantive
 27 change from former Art. 25, § 133 and the second sentence of former § 128.

28 In subsection (a)(1) of this section, the reference to "real or personal"
 29 property needed is substituted for the former reference to "such property
 30 as may be" needed for clarity and consistency with § 11-405(a)(1) of this
 31 subtitle.

32 In subsection (b)(1) of this section, the phrase "[a]fter considering the
 33 probable income from the correctional farm property" is substituted for the
 34 former reference to "taking carefully into account in the preparation
 35 thereof, the probable income from the property" for clarity.

1 Also in subsection (b)(1) of this section, the former reference to property
2 "committed to [the] care [of the governing body] under this subtitle" is
3 deleted as implicit in the reference to the "correctional farm property".

4 The Correctional Services Article Review Committee notes, for
5 consideration by the General Assembly, that this section grants to the
6 County Council of a Charter county authority that may otherwise be
7 exercised by the County Executive. The General Assembly may wish to
8 amend this section to authorize the "county", rather than the defined term
9 "governing body", to exercise the powers listed in this section.

10 Defined terms: "County" § 1-101

11 "Governing body" § 11-401

12 "Inmate" § 1-101

13 "Local correctional facility" § 1-101

14 11-405. OPERATION OF CORRECTIONAL FARM.

15 (A) CONTROL.

16 THE GOVERNING BODY:

17 (1) SHALL HAVE FULL AND COMPLETE JURISDICTION AND CONTROL
18 OVER ALL:

19 (I) REAL PROPERTY LEASED IN CONNECTION WITH A
20 CORRECTIONAL FARM; AND

21 (II) PERSONAL PROPERTY USED IN CONNECTION WITH A
22 CORRECTIONAL FARM; AND

23 (2) MAY ACQUIRE BY LEASE, PURCHASE, OR OTHERWISE ALL REAL
24 PROPERTY, EQUIPMENT, FOOD, UNIFORMS, CLOTHING, BOOKS, LEDGERS,
25 STATIONERY, AND OTHER SUPPLIES NECESSARY TO CARRY OUT THIS SUBTITLE.

26 (B) ADMINISTRATION.

27 THE COUNTY OFFICIALS WHO ARE REQUIRED BY LAW TO MAINTAIN, OPERATE,
28 AND ADMINISTER THE LOCAL CORRECTIONAL FACILITIES IN A COUNTY SHALL
29 MAINTAIN, OPERATE, AND ADMINISTER ANY CORRECTIONAL FARM ESTABLISHED
30 UNDER THIS SUBTITLE IN THE COUNTY.

31 (C) USE OF CORRECTIONAL FARM.

32 WITH THE ADVICE OF THE INDIVIDUAL IN CHARGE OF FARMING OPERATIONS
33 AT A CORRECTIONAL FARM, THE GOVERNING BODY SHALL DETERMINE:

34 (1) THE CROPS TO BE PLANTED AND GROWN ON THE CORRECTIONAL
35 FARM OR REAL PROPERTY HELD UNDER LEASE; AND

36 (2) THE ACREAGE FOR EACH CROP.

1 (D) USE OF PROCEEDS.

2 TO THE EXTENT EXPEDIENT, PRODUCE OR PROCEEDS FROM THE SALE OF
3 PRODUCE FROM THE CORRECTIONAL FARM SHALL BE USED TO FEED INMATES
4 COMMITTED TO THE CORRECTIONAL FARM.

5 REVISOR'S NOTE: This section is new language derived without substantive
6 change from former Art. 25, §§ 130 and 132.

7 In subsection (a)(1)(i) of this section, the reference to "real property" is
8 substituted for the former references to "lands" for clarity.

9 Also in subsection (a)(1)(i) of this section, the reference to real property
10 leased in connection with "a correctional farm" is substituted for the
11 former ambiguous reference to real property leased in connection
12 "therewith" for clarity. Similarly, in subsection (a)(1)(ii) of this section, the
13 reference to personal property used in connection with "a correctional
14 farm" is substituted for the former ambiguous reference to personal
15 property used in connection with "the property committed to its
16 jurisdiction" for clarity.

17 Also in subsection (a)(1)(ii) of this section, the former reference to
18 "equipment" is deleted as surplusage because equipment constitutes a type
19 of personal property.

20 In subsection (a)(2) of this section, the reference to "real property" is
21 substituted for the former reference to "lands and buildings" for brevity
22 and consistency with subsection (a)(1)(i) of this section.

23 Also in subsection (a)(2) of this section, the reference to property that is
24 necessary to "carry out this subtitle" is substituted for the former reference
25 to "carrying out of the duties imposed by this subtitle" for consistency
26 throughout this article. See General Revisor's Note to this article.

27 In subsection (c) of this section, the word "individual" is substituted for the
28 former reference to "person" because only a human being, and not the
29 other entities included in the defined term "person", can be in charge of
30 farming operations. See § 1-101 of this article for the definition of
31 "person".

32 In subsection (c)(1) of this section, the reference to "real property" is
33 substituted for the former reference to "land" for clarity and consistency
34 with subsection (a)(1)(i) of this section.

35 The Correctional Services Article Review Committee notes, for
36 consideration by the General Assembly, that this section grants to the
37 County Council of a Charter county authority that may otherwise be
38 exercised by the County Executive. The General Assembly may wish to
39 amend this section to authorize a "county", rather than the defined term
40 "governing body", to exercise the powers listed in this section.

1 Defined terms: "County" § 1-101

2 "Governing body" § 11-401

3 "Inmate" § 1-101

4 "Local correctional facility" § 1-101

5 11-406. INMATES -- GENERALLY.

6 (A) INMATE TRANSFER.

7 AN INMATE COMMITTED TO OR HELD IN A LOCAL CORRECTIONAL FACILITY
8 MAY BE TRANSFERRED TO THE CORRECTIONAL FARM IN THE COUNTY.

9 (B) INMATE DUTIES.

10 UNLESS EXCUSED FOR GOOD CAUSE, AN INMATE COMMITTED TO A
11 CORRECTIONAL FARM SHALL WORK AS DIRECTED ON THE CORRECTIONAL FARM OR
12 ANY REAL PROPERTY LEASED IN CONNECTION WITH THE CORRECTIONAL FARM.

13 REVISOR'S NOTE: This section is new language derived without substantive
14 change from the third sentence of former Art. 25, § 128 and the first
15 sentence of § 129.

16 In subsection (b) of this section, the reference to an inmate working "either
17 within or without" the correctional farm is deleted as implicit in the
18 reference to working "on the correctional farm or any real property leased
19 in connection with the correctional farm".

20 Defined terms: "County" § 1-101

21 "Inmate" § 1-101

22 "Local correctional facility" § 1-101

23 11-407. SAME -- COMPENSATION.

24 (A) AUTHORITY OF GOVERNING BODY.

25 THE GOVERNING BODY SHALL DETERMINE IF AN INMATE SHALL BE
26 COMPENSATED FOR WORK PERFORMED BY THE INMATE.

27 (B) MANNER OF COMPENSATION.

28 IF A GOVERNING BODY DETERMINES THAT AN INMATE SHALL BE
29 COMPENSATED AS PROVIDED IN SUBSECTION (A) OF THIS SECTION, THE GOVERNING
30 BODY SHALL DETERMINE WHETHER THE INMATE'S COMPENSATION SHALL BE:

31 (1) PAID TO THE INMATE DURING THE INMATE'S TERM OF
32 CONFINEMENT;

33 (2) WITHHELD UNTIL THE INMATE'S TERM OF CONFINEMENT EXPIRES;
34 OR

35 (3) PAID PERIODICALLY TO AN INMATE'S DEPENDENT FAMILY.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from the second sentence of former Art. 25, §§ 129 and 131.

3 Subsection (b) of this section is revised to clarify that the governing body
4 determines the manner of compensation only if the governing body has
5 first determined whether compensation will be paid.

6 In subsection (b)(1) of this section, the reference to whether compensation
7 shall be "paid" to an inmate is substituted for the former reference to
8 whether compensation shall be "made" to the inmate for consistency with
9 subsection (b)(3) of this section.

10 In subsection (b)(1) and (2) of this section, the references to "term of
11 confinement" are substituted for the former references to "term" and "term
12 of imprisonment" for consistency throughout this article. See General
13 Revisor's Note to this article.

14 The Correctional Services Article Review Committee notes, for
15 consideration by the General Assembly, that subsection (b) of this section
16 sets forth rules governing the disposition of an inmate's earnings. The
17 Committee further notes that there are significant inconsistencies
18 throughout this article in provisions governing the disposition of an
19 inmate's earnings in different contexts. See, e.g., §§ 3-804, 3-807(e)(1),
20 9-504(d), 9-512(b), 11-319(b), 11-407(b), 11-604, 11-703(d)(4), 11-704(d),
21 11-705(i), 11-706(b)(5), 11-708(b)(7), 11-711(g), 11-712(c)(5), 11-714(c)(4),
22 11-715(e), 11-716(g), 11-717(e), 11-718(e), 11-719(b), 11-722(b),
23 11-724(g), and 11-725(b) of this article and accompanying Revisor's Notes.
24 The General Assembly may wish to examine all of the relevant provisions
25 and determine whether they should be changed to reflect a more consistent
26 policy in this area.

27 Defined terms: "Governing body" § 11-401

28 "Inmate" § 1-101

29 GENERAL REVISOR'S NOTE TO SUBTITLE: The Correctional Services
30 Article Review Committee notes, for consideration by the General
31 Assembly, that there are currently no correctional farms operating in any
32 county in the State. According to the Chair of the Correctional Officials'
33 Committee of the Maryland Association of Counties, there are no pending
34 efforts to establish correctional farms in any county. The General Assembly
35 may wish to repeal this subtitle.

36 SUBTITLE 5. DIMINUTION CREDITS.

37 11-501. SCOPE -- COUNTIES.

38 IN THIS SUBTITLE, THE PROVISIONS THAT APPLY TO A LOCAL CORRECTIONAL
39 FACILITY ALSO APPLY TO THE BALTIMORE CITY DETENTION CENTER.

1 REVISOR'S NOTE: This section is new language derived without substantive
2 change from former Art. 27, § 704A(a).

3 The defined term "local correctional facility", which is used throughout this
4 article, is substituted for the former term "local detention center" and this
5 section is revised to state expressly that the provisions of this subtitle that
6 apply to a local correctional facility also apply to the Baltimore City
7 Detention Center, which is a State correctional facility. See § 1-101 of this
8 article for the definitions of "local correctional facility" and "State
9 correctional facility".

10 Defined term: "Local correctional facility" § 1-101

11 11-502. SCOPE -- PRESENTENCE AND POSTSENTENCE CONFINEMENT.

12 AN INMATE WHO HAS BEEN SENTENCED TO A TERM OF IMPRISONMENT SHALL
13 BE ALLOWED DEDUCTIONS FROM THE INMATE'S TERM OF CONFINEMENT AS
14 PROVIDED UNDER THIS SUBTITLE FOR ANY PERIOD OF PRESENTENCE OR
15 POSTSENTENCE CONFINEMENT IN A LOCAL CORRECTIONAL FACILITY.

16 REVISOR'S NOTE: This section is new language derived without substantive
17 change from former Art. 27, § 704A(b).

18 The reference to "[a]n inmate who has been sentenced to a term of
19 imprisonment" is added to state expressly that which was only implied in
20 the former law, i.e., diminution credits have no value unless an inmate has
21 been sentenced to a term of imprisonment against which the diminution
22 credits may be applied.

23 The reference to an inmate who "shall be allowed" deductions is
24 substituted for the former reference to an inmate who "is entitled" to
25 deductions for consistency throughout this subtitle with regard to
26 language that establishes a mandate.

27 The former reference to an inmate who is held in "pre-trial ... status" is
28 deleted as included in the reference to an inmate who is held in
29 "presentence ... confinement".

30 Defined terms: "Inmate" § 1-101

31 "Local correctional facility" § 1-101

32 11-503. DIMINUTION CREDITS -- PRESENTENCE CONFINEMENT -- GOOD CONDUCT.

33 (A) IN GENERAL.

34 AN INMATE SHALL BE ALLOWED A DEDUCTION OF 5 DAYS FROM THE INMATE'S
35 TERM OF CONFINEMENT FOR EACH CALENDAR MONTH OF PRESENTENCE
36 CONFINEMENT DURING WHICH THE INMATE:

37 (1) DOES NOT VIOLATE THE RULES OF DISCIPLINE; AND

1 (2) LABORS WITH DILIGENCE AND FIDELITY WHEN THE OPPORTUNITY
2 FOR LABOR IS AVAILABLE.

3 (B) METHOD OF CALCULATION.

4 THE DEDUCTIONS DESCRIBED IN THIS SECTION SHALL:

5 (1) BEGIN ON THE DAY THE INMATE ARRIVES AT THE LOCAL
6 CORRECTIONAL FACILITY;

7 (2) BE MADE ON A PRORATED BASIS FOR ANY PORTION OF A CALENDAR
8 MONTH OF PRESENTENCE CONFINEMENT DURING WHICH THE INMATE IS
9 COMMITTED TO THE LOCAL CORRECTIONAL FACILITY; AND

10 (3) CEASE ON THE DAY THE INMATE IS:

11 (I) SENTENCED TO A LOCAL CORRECTIONAL FACILITY;

12 (II) COMMITTED TO THE CUSTODY OF THE COMMISSIONER OF
13 CORRECTION; OR

14 (III) RELEASED.

15 REVISOR'S NOTE: This section is new language derived without substantive
16 change from former Art. 27, § 704A(c).

17 In the introductory language of subsection (a) of this section, the reference
18 to an inmate's "term of confinement" is substituted for the former reference
19 to the inmate's "commitment or sentence" for consistency throughout this
20 article. See General Revisor's Note to this article.

21 In the introductory language of subsection (a) and subsection (b)(2) of this
22 section, the references to each calendar month of "presentence
23 confinement" are added to state expressly that which was only implied in
24 the former law, i.e., an inmate is allowed deductions under this section
25 only for time served in presentence confinement. No substantive change is
26 intended.

27 The Correctional Services Article Review Committee notes, for
28 consideration by the General Assembly, that the standard for good conduct
29 that is established in subsection (a) of this section for presentence
30 confinement is different than the standard for good conduct that is
31 established in § 11-504 of this subtitle for postsentence confinement.
32 Under subsection (a) of this section, an inmate is allowed a deduction of 5
33 days from the inmate's term of confinement for each calendar month of
34 presentence confinement during which the inmate: (1) does not violate the
35 rules of discipline; and (2) labors with diligence and fidelity when the
36 opportunity for labor is available. Under § 11-504 of this subtitle, an
37 inmate is allowed an initial deduction from the inmate's term of
38 confinement that is calculated at a rate of 5 days for each calendar month

1 of postsentence confinement. The deductions that are allowed under §
2 11-504 of this subtitle may be revoked only if the inmate violates the rules
3 of discipline. See § 11-507 of this subtitle. There is no statutory authority
4 for revoking the deductions that are allowed under § 11-504 for failure to
5 "[labor] with diligence and fidelity when the opportunity for labor is
6 available". The General Assembly may wish to amend one or both of these
7 sections to make the standard for good conduct the same for both
8 presentence and postsentence confinement.

9 In subsection (b)(3) of this section, the reference to deductions ceasing on
10 the day that the inmate is "sentenced to a local correctional facility" is
11 added to state expressly that which was only implied in the former law and
12 for consistency with § 11-504 of this subtitle. An inmate is allowed
13 deductions for good conduct under this section only for time served in
14 presentence confinement. An inmate is allowed deductions for good
15 conduct under § 11-504 of this subtitle for time served in postsentence
16 confinement. No substantive change is intended.

17 Defined terms: "Commissioner of Correction" § 1-101

18 "Inmate" § 1-101

19 "Local correctional facility" § 1-101

20 11-504. SAME -- POSTSENTENCE CONFINEMENT -- GOOD CONDUCT.

21 (A) IN GENERAL.

22 AN INMATE WHO IS SENTENCED TO A LOCAL CORRECTIONAL FACILITY SHALL
23 BE ALLOWED AN INITIAL DEDUCTION FROM THE INMATE'S TERM OF CONFINEMENT.

24 (B) METHOD OF CALCULATION.

25 THE DEDUCTION DESCRIBED IN SUBSECTION (A) OF THIS SECTION SHALL BE
26 CALCULATED:

27 (1) FROM THE FIRST DAY OF THE INMATE'S POSTSENTENCE
28 COMMITMENT TO THE CUSTODY OF THE LOCAL CORRECTIONAL FACILITY TO THE
29 LAST DAY OF THE INMATE'S MAXIMUM TERM OF CONFINEMENT;

30 (2) AT THE RATE OF 5 DAYS FOR EACH CALENDAR MONTH; AND

31 (3) ON A PRORATED BASIS FOR ANY PORTION OF A CALENDAR MONTH.

32 REVISOR'S NOTE: This section is new language derived without substantive
33 change from former Art. 27, § 704A(d).

34 In subsection (a) of this section, the former reference to "the inmate's
35 future good conduct" is deleted as unnecessary in light of § 11-507 of this
36 subtitle, which provides that diminution credits that are awarded under
37 this section may be revoked for violations of disciplinary rules.

1 In subsection (b)(1) of this section, the reference to the first day of an
2 inmate's "postsentence" commitment to a local correctional facility is added
3 to state expressly that which was only implied in the former law, i.e., an
4 inmate is allowed deductions under this section only for time served in
5 postsentence confinement. No substantive change is intended.

6 The Correctional Services Article Review Committee notes, for
7 consideration by the General Assembly, that the standard for good conduct
8 that is established in this section for postsentence confinement is different
9 than the standard for good conduct that is established in § 11-503 of this
10 subtitle for presentence confinement. Under this section, an inmate is
11 allowed an initial deduction from the inmate's term of confinement that is
12 calculated at a rate of 5 days for each calendar month of postsentence
13 confinement. As provided in § 11-507 of this subtitle, these deductions may
14 be revoked only if the inmate violates the rules of discipline. There is no
15 statutory authority for revoking the deductions that are allowed under this
16 section for failure to "[labor] with diligence and fidelity when the
17 opportunity for labor is available". The General Assembly may wish to
18 amend one or both of these sections to make the standard for good conduct
19 the same for both presentence and postsentence confinement.

20 Defined terms: "Inmate" § 1-101

21 "Local correctional facility" § 1-101

22 11-505. SAME -- INDUSTRIAL, AGRICULTURAL, OR ADMINISTRATIVE TASKS;
23 EDUCATIONAL AND TRAINING COURSES.

24 (A) IN GENERAL.

25 IN ADDITION TO ANY OTHER DEDUCTIONS ALLOWED UNDER THIS SUBTITLE,
26 AN INMATE MAY BE ALLOWED A DEDUCTION OF 5 DAYS FROM THE INMATE'S TERM
27 OF CONFINEMENT FOR EACH CALENDAR MONTH OF PRESENTENCE OR
28 POSTSENTENCE CONFINEMENT DURING WHICH THE INMATE MANIFESTS:

29 (1) EXCEPTIONAL INDUSTRY, APPLICATION, AND SKILL IN THE
30 PERFORMANCE OF ANY INDUSTRIAL, AGRICULTURAL, OR ADMINISTRATIVE TASKS
31 ASSIGNED TO THE INMATE; OR

32 (2) SATISFACTORY INDUSTRY, APPLICATION, AND PROGRESS IN A
33 VOCATIONAL OR OTHER EDUCATIONAL OR TRAINING COURSE.

34 (B) METHOD OF CALCULATION.

35 THE DEDUCTIONS DESCRIBED IN SUBSECTION (A) OF THIS SECTION SHALL:

36 (1) BEGIN ON THE FIRST DAY THAT THE TASK IS PERFORMED OR THE
37 COURSE IS TAKEN;

1 (2) BE MADE ON A PRORATED BASIS FOR ANY PORTION OF A CALENDAR
2 MONTH DURING WHICH THE INMATE PERFORMED THE TASK OR ATTENDED THE
3 COURSE; AND

4 (3) CEASE ON THE DAY THE INMATE IS:

5 (I) COMMITTED TO THE CUSTODY OF THE COMMISSIONER OF
6 CORRECTION; OR

7 (II) RELEASED.

8 REVISOR'S NOTE: This section is new language derived without substantive
9 change from former Art. 27, § 704A(e).

10 In the introductory language of subsection (a) of this section, the reference
11 to deductions that are "[i]n addition to any other deductions allowed under
12 this subtitle" is added to state expressly that which was only implied in the
13 former reference to an "additional deduction".

14 Also in the introductory language of subsection (a) of this section, the
15 reference to a calendar month of "presentence or postsentence
16 confinement" is added to state expressly that which was only implied in
17 the former law, *i.e.*, an inmate is allowed deductions under this section for
18 time served in both presentence and postsentence confinement. No
19 substantive change is intended.

20 Also in the introductory language of subsection (a) of this section, the
21 reference to an inmate's "term of confinement" is substituted for the former
22 reference to an inmate's "period of ... commitment or sentence" for
23 consistency throughout this article. See General Revisor's Note to this
24 article.

25 Defined terms: "Commissioner of Correction" § 1-101

26 "Inmate" § 1-101

27 11-506. SAME -- SELECTED WORK PROJECTS AND SPECIAL PROGRAMS.

28 (A) IN GENERAL.

29 (1) IN ADDITION TO ANY OTHER DEDUCTIONS ALLOWED UNDER THIS
30 SUBTITLE, AN INMATE MAY BE ALLOWED A DEDUCTION OF NOT MORE THAN 5 DAYS
31 FROM THE INMATE'S TERM OF CONFINEMENT FOR EACH CALENDAR MONTH OR
32 PORTION OF A CALENDAR MONTH OF PRESENTENCE OR POSTSENTENCE
33 CONFINEMENT DURING WHICH AN INMATE MANIFESTS SATISFACTORY INDUSTRY,
34 APPLICATION, AND PROGRESS IN SPECIAL SELECTED WORK PROJECTS OR OTHER
35 SPECIAL PROGRAMS.

36 (2) THE DEDUCTION DESCRIBED IN PARAGRAPH (1) OF THIS
37 SUBSECTION SHALL BE CALCULATED FROM THE FIRST DAY THAT AN INMATE IS
38 ASSIGNED A PROJECT OR PROGRAM.

1 (B) DESIGNATION BY MANAGING OFFICIAL.

2 THE MANAGING OFFICIAL OF A LOCAL CORRECTIONAL FACILITY SHALL
3 DESIGNATE THE PROJECTS AND PROGRAMS THAT MAKE AN INMATE ELIGIBLE FOR
4 DIMINUTION CREDITS UNDER THIS SECTION.

5 REVISOR'S NOTE: This section is new language derived without substantive
6 change from former Art. 27, § 704A(f).

7 In subsection (a)(1) of this section, the reference to deductions that are "[i]n
8 addition to any other deductions allowed under this subtitle" is substituted
9 for the former reference to "additional" deductions to state expressly that
10 which was only implied in the former law.

11 Also in subsection (a)(1) of this section, the reference to a calendar month
12 or portion of a calendar month of "presentence or postsentence
13 confinement" is added to state expressly that which was only implied in
14 the former law, i.e., an inmate is allowed deductions under this section for
15 time served in both presentence and postsentence confinement. No
16 substantive change is intended.

17 Also in subsection (a)(1) of this section, the reference to an inmate's "term
18 of confinement" is substituted for the former reference to the inmate's
19 "period of ... commitment or sentence" for consistency throughout this
20 article. See General Revisor's Note to this article.

21 In subsection (a)(2) of this section, the reference to "calculat[ing] [the
22 deduction] from the first day that an inmate is assigned a project or
23 program" is substituted for the former vague reference to the deduction
24 "commencing on the first day of assignment" for clarity.

25 In subsection (b) of this section, the reference to projects and programs
26 "that make an inmate eligible for diminution credits under this section" is
27 substituted for the former reference to "[s]uch" projects and programs for
28 clarity.

29 Defined terms: "Inmate" § 1-101

30 "Local correctional facility" § 1-101

31 "Managing official" § 1-101

32 11-507. REVOCATION OF CREDITS FOR VIOLATIONS OF RULES OF DISCIPLINE.

33 (A) VIOLATION OF RULES OF DISCIPLINE.

34 IF AN INMATE VIOLATES THE RULES OF DISCIPLINE OF A LOCAL
35 CORRECTIONAL FACILITY, THE MANAGING OFFICIAL, FOR EACH VIOLATION, MAY
36 REVOKE SOME OR ALL OF THE DIMINUTION CREDITS AWARDED UNDER § 11-503
37 (PRESENTENCE GOOD CONDUCT) OR § 11-504 (POSTSENTENCE GOOD CONDUCT) OF
38 THIS SUBTITLE FOR THE MONTH IN WHICH THE VIOLATION OCCURS.

1 (B) AGGRAVATED NATURE OR FREQUENCY OF VIOLATION.

2 IN ADDITION TO THE REVOCATION AUTHORIZED UNDER SUBSECTION (A) OF
3 THIS SECTION, IF A VIOLATION IS AGGRAVATED OR THE INMATE COMMITS
4 FREQUENT VIOLATIONS, THE MANAGING OFFICIAL MAY REVOKE SOME OR ALL OF
5 THE DIMINUTION CREDITS AWARDED UNDER § 11-503 (PRESENTENCE GOOD
6 CONDUCT) OR § 11-504 (POSTSENTENCE GOOD CONDUCT) OF THIS SUBTITLE.

7 (C) OTHER DIMINUTION CREDITS NOT AFFECTED.

8 THIS SECTION DOES NOT AFFECT THE DIMINUTION CREDITS AWARDED UNDER
9 §§ 11-505 (INDUSTRIAL, AGRICULTURAL, OR ADMINISTRATIVE TASKS) AND 11-506
10 (SPECIAL SELECTED WORK PROJECTS) OF THIS SUBTITLE.

11 (D) DUE PROCESS REQUIRED.

12 A MANAGING OFFICIAL MAY NOT REVOKE DIMINUTION CREDITS AWARDED TO
13 AN INMATE UNLESS THE INMATE IS AFFORDED DUE PROCESS OF LAW BEFORE THE
14 REVOCATION.

15 REVISOR'S NOTE: This section is new language derived without substantive
16 change from former Art. 27, § 704A(g).

17 In subsections (a), (b), and (d) of this section, the references to "diminution
18 credits awarded" to an inmate are substituted for the former references to
19 "gained time" and "time gained" for consistency within this subtitle. See
20 also § 3-709 of this article.

21 In subsection (a) of this section, the reference to the managing official's
22 authority to "revoke" diminution credits is substituted for the former
23 reference to the managing official's authority to "deduct" diminution
24 credits for clarity and consistency with § 3-709(a) of this article.
25 Correspondingly, in subsection (b) of this section, the reference to the
26 "revocation" of diminution credits is substituted for the former reference to
27 the "deduction" of diminution credits.

28 Also in subsection (a) of this section, the reference to the authority to
29 revoke "some or" all of the diminution credits awarded for good conduct is
30 added to state expressly that which was only implied in the former
31 reference to the authority to revoke "all" of the diminution credits awarded
32 for good conduct and for consistency with subsection (b) of this section.

33 Also in subsection (a) of this section, the reference to diminution credits
34 "awarded under §§ 11-503 (presentence good conduct) and 11-504
35 (postsentence good conduct) of this subtitle" is added for consistency with
36 subsections (b) and (c) of this section.

37 Also in subsection (a) of this section, the reference to revoking diminution
38 credits awarded "for" the month in which the violation occurs is
39 substituted for the former reference to revoking diminution credits

1 awarded "in" the month in which the violation occurs to state expressly
2 that which was only implied in the former law, i.e., the maximum number
3 of credits that can be revoked under this subsection is 5 days.

4 The introductory clause of subsection (b) of this section, which provides
5 that the revocation authorized by this subsection is "[i]n addition to the
6 revocation authorized under subsection (a) of this section" is added to state
7 expressly that which was only implied in the former law.

8 In subsection (c) of this section, the reference to "diminution credits
9 awarded" to an inmate is substituted for the former reference to
10 "deductions allowed and earned" for consistency within this subtitle. See
11 also § 3-709 of this article. No substantive change is intended.

12 In subsection (d) of this section, the prohibition against a "managing
13 official ... revok[ing] diminution credits" is substituted for the former
14 prohibition against an "inmate ... forfeit[ing] time gained" for clarity
15 because an inmate does not lose "time gained" unless the managing official
16 takes action to revoke diminution credits.

17 Defined terms: "Inmate" § 1-101

18 "Local correctional facility" § 1-101

19 "Managing official" § 1-101

20 11-508. COMMITMENT TO CUSTODY OF COMMISSIONER OF CORRECTION OR
21 TRANSFER TO OTHER LOCAL CORRECTIONAL FACILITY.

22 IF AN INMATE IS COMMITTED TO THE CUSTODY OF THE COMMISSIONER OF
23 CORRECTION OR TRANSFERRED TO ANOTHER LOCAL CORRECTIONAL FACILITY:

24 (1) THE INMATE'S RECORD OF ACCRUED DIMINUTION CREDITS SHALL
25 BE FORWARDED TO THE RECEIVING CORRECTIONAL FACILITY; AND

26 (2) THE RECEIVING CORRECTIONAL FACILITY SHALL APPLY THE
27 CREDITS TO REDUCE THE INMATE'S TERM OF CONFINEMENT.

28 REVISOR'S NOTE: This section is new language derived without substantive
29 change from former Art. 27, § 704A(h).

30 In the introductory language of this section, the former reference to an
31 inmate being "ultimately" committed to the custody of the Commissioner is
32 deleted as surplusage.

33 In item (2) of this section, the reference to the inmate's "term" of
34 confinement is substituted for the former reference to the inmate's "period"
35 of confinement for consistency throughout this article. See General
36 Revisor's Note to this article.

37 Defined terms: "Commissioner of Correction" § 1-101

38 "Correctional facility" § 1-101

1 "Inmate" § 1-101

2 "Local correctional facility" § 1-101

3 11-509. TRANSFER TO HOSPITAL OR MENTAL INSTITUTION.

4 IF AN INMATE IS ENTITLED TO A DIMINUTION OF THE INMATE'S TERM OF
5 CONFINEMENT UNDER THIS SUBTITLE AND IS TRANSFERRED TO A HOSPITAL OR
6 MENTAL INSTITUTION, THE INMATE MAY NOT BE DENIED CREDIT AUTHORIZED BY
7 THIS SUBTITLE.

8 REVISOR'S NOTE: This section is new language derived without substantive
9 change from former Art. 27, § 704A(i).

10 The reference to the inmate's "term" of confinement is substituted for the
11 former reference to the inmate's "period" of confinement for consistency
12 throughout this article. See General Revisor's Note to this article.

13 Defined term: "Inmate" § 1-101

14 SUBTITLE 6. ALTERNATIVES TO INCARCERATION -- GENERALLY.

15 11-601. SCOPE.

16 (A) IN GENERAL.

17 EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION AND SUBTITLE 7 OF
18 THIS TITLE, THIS SUBTITLE APPLIES IN ALL COUNTIES.

19 (B) MONTGOMERY COUNTY.

20 THIS SUBTITLE DOES NOT APPLY IN MONTGOMERY COUNTY.

21 REVISOR'S NOTE: This section is new language derived without substantive
22 change from former Art. 27, § 645S.

23 The provisions of former Art. 27, §§ 645K through 645S, which are revised
24 in this subtitle, set forth general rules governing work release for local
25 correctional facilities. The provisions of former Art. 27, §§ 645T through
26 645MM, which are revised in Subtitle 7 of this title, set forth rules
27 governing work release and other alternatives to incarceration in
28 particular counties. All of these provisions were in the same subtitle in
29 former Art. 27, which was entitled "Employment of Prisoners". Subsection
30 (a) of this section clarifies that the general provisions of this subtitle do not
31 apply when there are conflicting provisions in Subtitle 7 of this title
32 relating to work release and other alternatives to incarceration in
33 particular counties.

34 Defined term: "County" § 1-101

1 11-602. EMPLOYMENT.

2 (A) SENTENCING JUDGE.

3 (1) (I) WHEN AN INDIVIDUAL IS CONVICTED OF A CRIME AND
4 SENTENCED TO A LOCAL CORRECTIONAL FACILITY, THE SENTENCING JUDGE MAY
5 ALLOW THE INDIVIDUAL, TO THE EXTENT POSSIBLE, TO CONTINUE THE
6 INDIVIDUAL'S REGULAR EMPLOYMENT OR OBTAIN NEW EMPLOYMENT DURING THE
7 INMATE'S TERM OF CONFINEMENT.

8 (II) WHEN AN INDIVIDUAL IS ADJUDICATED TO BE IN CONTEMPT
9 OF COURT AND COMMITTED TO THE CUSTODY OF A LOCAL CORRECTIONAL FACILITY,
10 THE JUDGE WHO COMMITS THE INDIVIDUAL MAY ALLOW THE INDIVIDUAL, TO THE
11 EXTENT POSSIBLE, TO CONTINUE THE INDIVIDUAL'S REGULAR EMPLOYMENT OR
12 OBTAIN NEW EMPLOYMENT DURING THE PERIOD IN WHICH THE INDIVIDUAL IS
13 COMMITTED TO THE CUSTODY OF THE LOCAL CORRECTIONAL FACILITY.

14 (2) IF A JUDGE ALLOWS AN INDIVIDUAL TO CONTINUE EMPLOYMENT OR
15 OBTAIN NEW EMPLOYMENT UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE
16 JUDGE SHALL DESIGNATE EITHER THE MANAGING OFFICIAL OF THE LOCAL
17 CORRECTIONAL FACILITY OR THE DIVISION OF PAROLE AND PROBATION TO
18 SUPERVISE, ARRANGE FOR, OR OBTAIN EMPLOYMENT FOR THE INDIVIDUAL.

19 (B) MANAGING OFFICIAL; DIVISION OF PAROLE AND PROBATION.

20 IF A JUDGE DESIGNATES A MANAGING OFFICIAL OR THE DIVISION OF PAROLE
21 AND PROBATION TO ARRANGE FOR OR OBTAIN EMPLOYMENT FOR AN INMATE AS
22 PROVIDED UNDER SUBSECTION (A)(2) OF THIS SECTION, THE MANAGING OFFICIAL
23 OR DIVISION:

24 (1) IN THE CASE OF AN INMATE WHO HAS BEEN REGULARLY EMPLOYED,
25 SHALL ARRANGE FOR CONTINUATION OF EMPLOYMENT WITHOUT INTERRUPTION
26 TO THE EXTENT POSSIBLE; AND

27 (2) IN THE CASE OF AN INMATE WHO IS NOT EMPLOYED, SHALL MAKE
28 EVERY EFFORT TO SECURE SUITABLE EMPLOYMENT THAT PAYS A FAIR AND
29 REASONABLE WAGE.

30 (C) INMATE'S OBLIGATION TO WORK.

31 IF A MANAGING OFFICIAL OR THE DIVISION OF PAROLE AND PROBATION
32 SECURES SUITABLE EMPLOYMENT FOR AN INMATE THAT PAYS A FAIR AND
33 REASONABLE WAGE, THE INMATE SHALL WORK A FAIR AND REASONABLE NUMBER
34 OF HOURS EACH DAY AND WEEK.

35 REVISOR'S NOTE: This section is new language derived without substantive
36 change from former Art. 27, §§ 645K and 645Q.

37 In subsection (a) of this section, the former reference to "the counties to
38 which this subtitle applies" is deleted as unnecessary in light of § 11-601 of

1 this subtitle, which establishes the scope of this subtitle.

2 In subsection (a)(1)(i) of this section, the former reference to an inmate who
3 is sentenced to "imprisonment in" a local correctional facility is deleted as
4 implicit in the reference to an inmate who is "sentenced to a local
5 correctional facility".

6 Also in subsection (a)(1)(i) of this section, the reference to the inmate's
7 term "of confinement" is substituted for the former reference to the
8 inmate's term of "sentence" for consistency throughout this article. See
9 General Revisor's Note to this article.

10 In subsection (a)(1)(ii) of this section, the former reference to a court "of
11 record" is deleted as implicit in the reference to a "court".

12 In subsection (b) of this section, the reference to "a judge designat[ing] a
13 managing official or the Division of Parole and Probation to arrange for or
14 obtain employment for an inmate" is added to state expressly that which
15 was only implied in the former law.

16 In subsection (c) of this section, the reference to "a managing official or the
17 Division of Parole and Probation secur[ing] suitable employment for an
18 inmate that pays a fair and reasonable wage" is added to state expressly
19 that which was only implied in the former law.

20 Defined terms: "Division of Parole and Probation" § 1-101

21 "Inmate" § 1-101

22 "Local correctional facility" § 1-101

23 "Managing official" § 1-101

24 11-603. CONFINEMENT WHEN NOT WORKING.

25 UNLESS THE COURT DIRECTS OTHERWISE, AN INMATE SHALL BE CONFINED IN
26 THE LOCAL CORRECTIONAL FACILITY:

27 (1) WHEN NOT EMPLOYED; AND

28 (2) BETWEEN PERIODS OF EMPLOYMENT.

29 REVISOR'S NOTE: This section is new language derived without substantive
30 change from former Art. 27, § 645L.

31 In item (2) of this section, the former reference to "hours" of employment is
32 deleted as implicit in the reference to "periods" of employment.

33 Defined terms: "Inmate" § 1-101

34 "Local correctional facility" § 1-101

35 11-604. EARNINGS.

36 (A) COLLECTION.

1 THE DEPARTMENT SHALL COLLECT AN INMATE'S EARNINGS.

2 (B) DISTRIBUTION OF EARNINGS.

3 FROM AN INMATE'S EARNINGS, THE DEPARTMENT SHALL:

4 (1) REIMBURSE THE COUNTY OR STATE FOR THE COST OF PROVIDING
5 FOOD, LODGING, AND CLOTHING TO THE INMATE IN A LOCAL CORRECTIONAL
6 FACILITY;

7 (2) PAY COURT ORDERED PAYMENTS FOR SUPPORT OF DEPENDENTS;
8 AND

9 (3) PAY COURT ORDERED PAYMENTS FOR RESTITUTION.

10 (C) BALANCE OF EARNINGS.

11 THE DEPARTMENT SHALL:

12 (1) CREDIT TO THE INMATE'S ACCOUNT ANY BALANCE THAT REMAINS
13 AFTER PAYING THE ITEMS IN SUBSECTION (B)(1) THROUGH (3) OF THIS SECTION; AND

14 (2) PAY THE BALANCE IN THE INMATE'S ACCOUNT TO THE INMATE
15 WITHIN 15 DAYS AFTER THE INMATE IS RELEASED.

16 REVISOR'S NOTE: This section is new language derived without substantive
17 change from former Art. 27, § 645M.

18 The Correctional Services Article Review Committee notes, for
19 consideration by the General Assembly, that subsections (b) and (c) of this
20 section set forth rules governing the disposition of an inmate's earnings.
21 The Committee further notes that there are significant inconsistencies
22 throughout this article in provisions governing the disposition of an
23 inmate's earnings in different contexts. See, e.g., §§ 3-804, 3-807(e)(1),
24 9-504(d), 9-512(b), 11-319(b), 11-407(b), 11-703(d)(4), 11-704(d),
25 11-705(i), 11-706(b)(5), 11-708(b)(7), 11-711(g), 11-712(c)(5), 11-714(c)(4),
26 11-715(e), 11-716(g), 11-717(e), 11-718(e), 11-719(b), 11-722(b),
27 11-724(g), and 11-725(b) of this article and accompanying Revisor's Notes.
28 The General Assembly may wish to examine all of the relevant provisions
29 and determine whether they should be changed to reflect a more consistent
30 policy in this area.

31 In subsection (c) of this section, the requirement that the "Department"
32 take the specified action is added to state expressly that which was only
33 implied in the former law.

34 Defined terms: "County" § 1-101

35 "Department" § 1-101

36 "Inmate" § 1-101

37 "Local correctional facility" § 1-101

1 11-605. DIMINUTION CREDITS.

2 IF THE COMMITTING COURT DETERMINES THAT AN INMATE'S CONDUCT,
3 DILIGENCE, AND GENERAL ATTITUDE MERIT A DIMINUTION OF SENTENCE, THE
4 COURT MAY ALLOW DIMINUTION OF ONE-FOURTH OF THE INMATE'S TERM OF
5 CONFINEMENT.

6 REVISOR'S NOTE: This section is new language derived without substantive
7 change from former Art. 27, § 645N.

8 In this section, the reference to an inmate's term "of confinement" is added
9 for consistency throughout this article. See General Revisor's Note to this
10 article.

11 The Correctional Services Article Review Committee notes, for
12 consideration by the General Assembly, that the meaning of the reference
13 in this section to the court's authority to allow diminution of "one-fourth of
14 the inmate's term of confinement" is unclear. The Committee is uncertain
15 as to whether this language: (1) establishes a maximum number of
16 diminution credits that a court may allow an inmate (*i.e.*, up to one-fourth
17 of the inmate's term of confinement); or (2) establishes an "all or nothing"
18 rule whereby a court is authorized to allow an inmate a fixed amount of
19 diminution credits (*i.e.*, one-fourth of the inmate's term of confinement) or
20 none at all. The Committee further notes that it is unclear how this section
21 relates to §§ 11-503 through 11-506 of this title, under which an inmate
22 may be awarded various types of diminution credits. The General
23 Assembly may wish to amend this section to clarify these issues.

24 Defined term: "Inmate" § 1-101

25 11-606. VIOLATION OF CONDITIONS OF EMPLOYMENT.

26 (A) RETURN TO SENTENCING COURT.

27 IF AN INMATE VIOLATES A CONDITION IMPOSED FOR THE INMATE'S CONDUCT,
28 CUSTODY, OR EMPLOYMENT, THE INMATE SHALL BE RETURNED TO THE COURT.

29 (B) AUTHORITY OF SENTENCING COURT.

30 THE COURT MAY:

31 (1) REQUIRE THAT THE BALANCE OF THE INMATE'S SENTENCE BE
32 SERVED IN ACTUAL CONFINEMENT; AND

33 (2) CANCEL ANY EARNED DIMINUTION OF THE INMATE'S TERM OF
34 CONFINEMENT.

35 REVISOR'S NOTE: This section is new language derived without substantive
36 change from former Art. 27, § 645-O.

1 In subsection (b)(2) of this section, the reference to an inmate's term "of
2 confinement" is added for consistency throughout this article. See General
3 Revisor's Note to this article.

4 Defined term: "Inmate" § 1-101

5 11-607. EXPENSES OF MANAGING OFFICIAL.

6 THE MANAGING OFFICIAL OF A LOCAL CORRECTIONAL FACILITY SHALL
7 RECEIVE AN EXTRA EXPENSE OR MILEAGE ALLOWANCE AS THE LOCAL GOVERNING
8 BODY DETERMINES FOR ADDITIONAL SERVICES PROVIDED UNDER THIS SUBTITLE.

9 REVISOR'S NOTE: This section is new language derived without substantive
10 change from former Art. 27, § 645P.

11 In this section, the reference to the "local governing body" is substituted for
12 the former reference to the "board of county commissioners" because some
13 of the counties to which this subtitle applies are charter counties and,
14 therefore, are not governed by a board of county commissioners.

15 Defined terms: "Local correctional facility" § 1-101

16 "Managing official" § 1-101

17 GENERAL REVISOR'S NOTE TO SUBTITLE:

18 The Correctional Services Article Review Committee notes, for
19 consideration by the General Assembly, that the source law for this subtitle
20 uses the words "judge", "sentencing judge", "court", and "committing
21 court". There is no apparent consistency regarding the use of one term
22 versus another. The General Assembly may wish to amend this subtitle to
23 create uniformity in this area.

24 SUBTITLE 7. INDIVIDUAL COUNTY PROVISIONS.

25 11-701. DEFINITIONS.

26 (A) IN GENERAL.

27 IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

28 REVISOR'S NOTE: This subsection is new language added as the standard
29 introduction to a definitional section.

30 (B) COURT.

31 "COURT" MEANS THE MARYLAND DISTRICT COURT OR A CIRCUIT COURT OF A
32 COUNTY.

33 REVISOR'S NOTE: This subsection is new language added to allow concise
34 references to the Maryland District Court or a circuit court of a county.

1 Defined term: "County" § 1-101

2 (C) CRIME OF VIOLENCE.

3 "CRIME OF VIOLENCE" HAS THE MEANING STATED IN ARTICLE 27, § 643B OF THE
4 CODE.

5 REVISOR'S NOTE: This subsection is new language added to avoid repetition
6 of the definition of "crime of violence".

7 11-702. ALLEGANY COUNTY.

8 (A) SCOPE OF SECTION.

9 THIS SECTION APPLIES ONLY IN ALLEGANY COUNTY.

10 (B) HOME DETENTION PROGRAM.

11 (1) THE SHERIFF SHALL:

12 (I) ESTABLISH AND ADMINISTER A HOME DETENTION PROGRAM;
13 AND

14 (II) ADOPT REGULATIONS FOR THE PROGRAM.

15 (2) AT THE TIME OF SENTENCING OR AT ANY TIME DURING AN
16 INDIVIDUAL'S CONFINEMENT, THE SENTENCING JUDGE MAY ALLOW AN INDIVIDUAL
17 WHO IS CONVICTED OF A CRIME AND SENTENCED TO IMPRISONMENT TO
18 PARTICIPATE IN THE HOME DETENTION PROGRAM.

19 (3) SUBJECT TO PARAGRAPH (4) OF THIS SUBSECTION, AN INMATE IS
20 ELIGIBLE FOR THE HOME DETENTION PROGRAM IF THE INMATE:

21 (I) IS RECOMMENDED FOR THE PROGRAM BY THE SENTENCING
22 JUDGE; AND

23 (II) HAS NO OTHER CHARGES PENDING IN ANY JURISDICTION.

24 (4) AN INMATE IS NOT ELIGIBLE FOR THE HOME DETENTION PROGRAM
25 IF THE INMATE:

26 (I) IS SERVING A SENTENCE FOR A CRIME OF VIOLENCE; OR

27 (II) HAS BEEN FOUND GUILTY OF THE CRIME OF:

28 1. CHILD ABUSE UNDER ARTICLE 27, § 35C OF THE CODE; OR

29 2. ESCAPE UNDER ARTICLE 27, § 139 OF THE CODE.

30 (5) WHILE PARTICIPATING IN THE HOME DETENTION PROGRAM AN
31 INMATE IS RESPONSIBLE FOR:

1 (I) THE INMATE'S MEDICAL CARE AND RELATED EXPENSES; AND

2 (II) COSTS OF LODGING, FOOD, CLOTHING, TRANSPORTATION,
3 RESTITUTION, AND TAXES.

4 (6) THE SHERIFF MAY:

5 (I) COLLECT A REASONABLE FEE FROM EACH INMATE
6 PARTICIPATING IN THE HOME DETENTION PROGRAM; OR

7 (II) WAIVE OR REDUCE THE FEE.

8 (7) THE SHERIFF MAY DETERMINE THE MAXIMUM NUMBER OF INMATES
9 THAT MAY PARTICIPATE IN THE HOME DETENTION PROGRAM.

10 (8) AN INMATE WHO KNOWINGLY OR WILLFULLY VIOLATES A TERM OR
11 A CONDITION OF THE HOME DETENTION PROGRAM:

12 (I) IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS
13 SUBJECT TO A FINE NOT EXCEEDING \$10,000, IMPRISONMENT NOT EXCEEDING 1
14 YEAR, OR BOTH; AND

15 (II) IS SUBJECT TO OTHER DISCIPLINARY ACTION PROVIDED BY
16 LAW.

17 REVISOR'S NOTE: This section is new language derived without substantive
18 change from former Art. 27, § 645JJ, as it related to Allegany County.

19 In subsection (b)(2) of this section, the reference to an individual's
20 "confinement" is substituted for the former reference to an individual's
21 "incarceration" for consistency throughout this article. See General
22 Revisor's Note to this article.

23 Also in subsection (b)(2) of this section, the reference to "allow[ing]" an
24 individual to participate in a home detention program is substituted for
25 the former reference to "prescrib[ing]" participation for stylistic
26 consistency throughout this article.

27 Also in subsection (b)(2) of this section, the former phrase "by any court in
28 the county" is deleted as unnecessary in light of subsection (a) of this
29 section.

30 Also in subsection (b)(2) of this section, the phrase "established under this
31 section", which formerly modified the phrase "home detention program", is
32 deleted as implied in the reference to "home detention program".

33 The Correctional Services Article Review Committee notes, for
34 consideration by the General Assembly, that subsection (b)(2) of this
35 section authorizes a "sentencing judge" to allow an individual to
36 participate in the home detention program. Subsection (b)(2) is silent as to

1 what happens when the sentencing judge is unable to act on the matter.
2 The General Assembly may wish to amend subsection (b)(2) to state
3 expressly that, when the sentencing judge is unable to act, the authority to
4 place an individual in the home detention program extends to other judges
5 of the committing court. See, e.g., §§ 11-704(c)(1)(i), 11-706(b)(2),
6 11-712(c)(2)(ii), and 11-717(d)(1) and (2) and (f)(3) of this subtitle.
7 Alternatively, the General Assembly may wish to amend subsection (b)(2)
8 to reflect the language of Maryland Rule 4-347, which establishes
9 procedures for hearings on alleged violations of probation. Maryland Rule
10 4-347 requires "[t]he court" to hold a hearing to determine whether a
11 violation has occurred. The rule also provides that "[w]henever practicable,
12 the hearing shall be held before the sentencing judge". See also §§
13 11-708(c)(2), 11-709(b)(2)(i) and (3)(i), 11-712(d)(2) and (3)(i), 11-714(b)(1)
14 and (3)(i) and (d)(2) and (3)(i), and 11-715(d)(1) and (g)(1)(i) of this subtitle
15 and accompanying Revisor's Notes. If the General Assembly amends
16 subsection (b)(2), a corresponding change should be made to subsection
17 (b)(3)(i) of this section, which refers to a recommendation of the
18 "sentencing judge".

19 In subsection (b)(3) of this section, the phrase "[s]ubject to paragraph (4) of
20 this subsection" is added to clarify that paragraph (4) imposes additional
21 eligibility criteria for the program. See also §§ 11-708(c)(3), 11-709(b)(3),
22 and 11-714(d)(3) of this subtitle.

23 In subsection (b)(3)(ii) of this section, the reference to charges pending in
24 any "jurisdiction" is substituted for the former reference to those that are
25 pending in any "city, county, or state" for consistency within this subtitle.
26 See, e.g., §§ 11-708(b)(2)(ii), 11-709(b)(3), 11-712(b)(4)(ii) and (d)(3)(ii),
27 11-714(d)(3)(ii), 11-715(d)(1)(ii), and 11-724(e)(2) of this subtitle. The
28 Correctional Services Article Review Committee notes, for consideration by
29 the General Assembly, that the reference to charges pending in any
30 "jurisdiction", which includes charges filed in federal court, may be broader
31 than the more ambiguous reference to charges pending in any "city, county,
32 or state".

33 In subsection (b)(5) of this section, the former term "housing" is deleted as
34 redundant of "lodging".

35 Also in subsection (b)(5) of this section, the former reference to an
36 individual who is "sentenced to home detention" is deleted as implied in
37 the reference to the individual's responsibility for the specified costs
38 "[w]hile participating in the home detention program".

39 In subsection (b)(6) of this section, the former reference to a fee "imposed
40 under subparagraph (i) of this paragraph" is deleted as implied in the
41 reference to "fee".

42 The Correctional Services Article Review Committee notes, for
43 consideration by the General Assembly, that subsection (b)(8) of this

1 section refers to an inmate who "knowingly or willfully" violates a term or
2 a condition. The Committee is uncertain as to whether this reference is
3 redundant.

4 Defined terms: "Crime of violence" § 11-701

5 "Inmate" § 1-101

6 11-703. ANNE ARUNDEL COUNTY.

7 (A) DEFINITIONS.

8 (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
9 INDICATED.

10 (2) "ADMINISTRATOR" MEANS THE ADMINISTRATOR OF THE COUNTY'S
11 LOCAL CORRECTIONAL FACILITIES.

12 (3) "PARTICIPANT" MEANS A CONVICTED INDIVIDUAL WHO
13 PARTICIPATES IN A PROGRAM UNDER THIS SECTION.

14 (4) "PROGRAM" MEANS, UNLESS THE CONTEXT REQUIRES OTHERWISE, A
15 REHABILITATION OR WORK PROGRAM ESTABLISHED AND CONDUCTED UNDER THIS
16 SECTION.

17 (B) SCOPE OF SECTION.

18 THIS SECTION APPLIES ONLY IN ANNE ARUNDEL COUNTY.

19 (C) CONFLICTING PROVISIONS; AGENCY.

20 (1) IF A PROVISION OF SUBSECTIONS (A) THROUGH (E) OF THIS SECTION
21 IS INCONSISTENT WITH ANOTHER PROVISION IN THE CODE, THE PROVISION OF
22 SUBSECTIONS (A) THROUGH (E) OF THIS SECTION CONTROLS.

23 (2) THE PRIVILEGES AND PENALTIES SET FORTH IN SUBSECTION
24 (D)(1)(V) AND (VI) OF THIS SECTION ARE THE EXCLUSIVE PRIVILEGES AND PENALTIES
25 THAT RELATE TO THE LENGTH OF SENTENCE OF A PARTICIPANT IN A PROGRAM.

26 (3) WHILE RELEASED FROM CONFINEMENT UNDER THE TERMS OF A
27 PROGRAM, A PARTICIPANT IS NOT AN AGENT, EMPLOYEE, OR SERVANT OF THE
28 COUNTY.

29 (D) WORK RELEASE, TRAINING, AND REHABILITATION PROGRAMS.

30 (1) THE ADMINISTRATOR MAY:

31 (I) ESTABLISH, FOR THE REHABILITATION AND TRAINING OF AN
32 INMATE WHO IS SENTENCED TO IMPRISONMENT IN A LOCAL CORRECTIONAL
33 FACILITY, A PROGRAM THAT ENABLES THE INMATE TO:

1 (II) FROM THE PARTICIPANT'S EARNINGS, THE ADMINISTRATOR OR
2 DESIGNEE SHALL PAY:

3 1. THE COST TO THE COUNTY OF PROVIDING FOOD,
4 LODGING, AND CLOTHING FOR THE PARTICIPANT;

5 2. THE FOOD, TRAVEL, AND OTHER EXPENSES OF THE
6 PARTICIPANT INCIDENTAL TO PARTICIPATION IN THE PROGRAM;

7 3. VOLUNTARY OR COURT-ORDERED PAYMENTS FOR
8 SUPPORT OF A DEPENDENT;

9 4. COURT-ORDERED COSTS AND FINES;

10 5. REPAYMENT TO THE STATE FOR COURT-APPOINTED
11 COUNSEL;

12 6. IF ORDERED BY THE COURT, REPAYMENT TO THE STATE
13 FOR THE SERVICES OF THE PUBLIC DEFENDER; AND

14 7. COURT-ORDERED PAYMENTS FOR RESTITUTION.

15 (III) THE ADMINISTRATOR OR DESIGNEE SHALL:

16 1. CREDIT TO THE PARTICIPANT'S ACCOUNT ANY
17 REMAINING BALANCE; AND

18 2. DISPOSE OF THE BALANCE AS REQUESTED BY THE
19 PARTICIPANT AND AS APPROVED BY THE ADMINISTRATOR.

20 (5) A PARTICIPANT WHO VIOLATES A REGULATION ADOPTED UNDER
21 THIS SECTION:

22 (I) IS SUBJECT TO REMOVAL FROM THE PROGRAM;

23 (II) AFTER AN ADMINISTRATIVE HEARING, IS SUBJECT TO
24 CANCELLATION OF ANY EARNED DIMINUTION OF THE INMATE'S TERM OF
25 CONFINEMENT; AND

26 (III) FOR WILLFUL FAILURE TO RETURN TO THE ASSIGNED LOCAL
27 CORRECTIONAL FACILITY IN VIOLATION OF A REGULATION ADOPTED UNDER THIS
28 SECTION, IS SUBJECT TO PROSECUTION UNDER ARTICLE 27, § 139 OF THE CODE.

29 (E) WORK PROGRAM.

30 (1) A COURT MAY REQUIRE AN INDIVIDUAL WHO IS CONVICTED OF A
31 CRIME TO SATISFY A FINE OR COURT COSTS BY PARTICIPATING IN A WORK PROGRAM
32 ESTABLISHED UNDER THE JURISDICTION OF THE DIVISION OF PAROLE AND
33 PROBATION.

1 (2) AN INDIVIDUAL WHO PARTICIPATES IN THE WORK PROGRAM SHALL
2 RECEIVE CREDIT OF AT LEAST THE FEDERAL MINIMUM WAGE PER HOUR TOWARD
3 THE FINE AND COURT COSTS.

4 (F) FARM LABOR.

5 (1) (I) IN THIS SUBSECTION, "FARM LABOR" MEANS AGRICULTURAL
6 WORK.

7 (II) "FARM LABOR" INCLUDES:

8 1. THE THRESHING OR HARVESTING OF CROPS;

9 2. THE PRODUCTION OF ANY AGRICULTURAL,
10 HORTICULTURAL, VEGETABLE, OR FRUIT PRODUCT OF THE SOIL, LIVESTOCK,
11 MEATS, MARINE FOOD PRODUCTS, EGGS, DAIRY PRODUCTS, WOOL, NUTS, HONEY,
12 AND EVERY PRODUCT OF FARM, FOREST, GARDEN, ORCHARD, OR WATER; AND

13 3. ANY SERVICES THAT ARE GENERALLY REGARDED AS
14 INCIDENTAL TO AND CONNECTED WITH FARMS, DAIRIES, OR THE SEAFOOD
15 INDUSTRY.

16 (2) THE ADMINISTRATOR MAY ASSIGN ABLE-BODIED MALE INMATES IN
17 A LOCAL CORRECTIONAL FACILITY TO PERFORM FARM LABOR ON THE FOLLOWING
18 TERMS AND CONDITIONS:

19 (I) THE ASSIGNMENT MAY BE MADE ONLY AFTER A PERSON THAT
20 DESIRES TO EMPLOY FARM LABOR SUBMITS A WRITTEN REQUEST THAT SHOWS TO
21 THE SATISFACTION OF THE ADMINISTRATOR THAT FARM LABOR IS NOT OTHERWISE
22 OBTAINABLE;

23 (II) THE PERSON REQUESTING THE FARM LABOR SHALL PAY THE
24 COSTS INCIDENT TO AN ASSIGNMENT TO FARM LABOR, INCLUDING THE COST OF
25 TRANSPORTATION OF THE INMATES TO AND FROM THE LOCAL CORRECTIONAL
26 FACILITY, A REASONABLE PER DIEM WAGE FOR AN INMATE PERFORMING FARM
27 LABOR, AND THE COST OF PROPERLY GUARDING AN INMATE WHILE PERFORMING
28 FARM LABOR;

29 (III) THE ADMINISTRATOR MAY REQUIRE PROOF OF FINANCIAL
30 RESPONSIBILITY, INCLUDING A PAYMENT IN ADVANCE;

31 (IV) THE PERSON REQUESTING THE FARM LABOR SHALL ASSUME
32 ANY LIABILITY FOR AN INJURY TO AN INMATE WHILE BEING TRANSPORTED TO OR
33 FROM A LOCAL CORRECTIONAL FACILITY OR WHILE PERFORMING FARM LABOR;

34 (V) ASSIGNMENTS TO FARM LABOR SHALL BE MADE ON A DAILY
35 BASIS ONLY AND AN INMATE ASSIGNED TO FARM LABOR SHALL BE RETURNED TO
36 THE LOCAL CORRECTIONAL FACILITY EACH NIGHT; AND

1 (VI) OTHER TERMS AND CONDITIONS THAT THE ADMINISTRATOR
2 CONSIDERS ADVISABLE.

3 (3) THE COUNTY COUNCIL SHALL REIMBURSE THE ADMINISTRATOR
4 OUT OF THE COUNTY FUND FOR ANY EXPENSES INCURRED IN CONVEYING AN
5 INMATE TO AND FROM A FARM LABOR SITE OR IN PROPERLY GUARDING AN INMATE
6 WHILE PERFORMING FARM LABOR UNDER REGULATIONS THAT THE ADMINISTRATOR
7 OR OTHER OFFICER CONSIDERS NECESSARY FOR THE HEALTH AND SAFE CUSTODY
8 OF THE INMATE.

9 (4) AN INMATE WHO ESCAPES WHILE RELEASED FROM ACTUAL
10 CONFINEMENT UNDER A FARM LABOR PLAN IS GUILTY OF A MISDEMEANOR AND ON
11 CONVICTION IS SUBJECT TO THE PENALTIES PROVIDED IN ARTICLE 27, § 139 OF THE
12 CODE.

13 REVISOR'S NOTE: This section is new language derived without substantive
14 change from former Art. 27, §§ 645 and 645Y.

15 Former Art. 27, § 645(e), which is revised in subsection (b) of this section,
16 was applicable only to subsection (f) of this section. In this revision, it is
17 made applicable to subsections (a) and (c) through (e) of this section to
18 clarify that these subsections also apply only in Anne Arundel County.

19 Throughout this section, the former references to "Anne Arundel County"
20 are deleted as unnecessary in light of subsection (b) of this section.

21 The definitions in former Art. 27, § 645Y(a), which are revised in
22 subsection (a) of this section, were applicable only to the other provisions of
23 former Art. 27, § 645Y, which are revised in subsections (c) through (e) of
24 this section. In this revision, those definitions are also made applicable to
25 subsection (f) of this section. The only defined term that is used in
26 subsection (f) is "Administrator" and no substantive change is made by
27 using this defined term.

28 In subsection (a)(2) of this section, the reference to "the Administrator's
29 designee", which formerly was included in the alternative in the definition
30 of the term "[a]dministrator" unless "the context requires otherwise", is
31 deleted as unnecessary and potentially misleading in light of subsection (d)
32 of this section, which, at times, includes an express reference to a
33 "designee" of the Administrator and at times omits the express reference.
34 This revision retains the express reference as it appeared in the former
35 law. See subsection (d)(4) of this section (in which the term "designee" is
36 used); see also subsection (d)(1) and (2) of this section (in which the term
37 "designee" is not used and in which the context would seem to require that
38 the Administrator, and not a designee, carry out the duties specified in
39 those provisions).

40 In subsections (c)(3) and (d)(3) and (5) of this section, the references to the
41 defined term "participant" are substituted for the former references to
42 "prisoner" for consistency within this section.

1 In subsection (d)(1)(vi) of this section, the reference to "earned diminution
2 of an inmate's term of confinement" is substituted for the former reference
3 to "reduction in sentence" for consistency throughout this article. Similarly,
4 in subsection (d)(5) of this section, the reference to any earned diminution
5 of "the inmate's term of confinement" is substituted for the former
6 reference to any earned diminution of "sentence". See General Revisor's
7 Note to this article.

8 The references to regulations adopted under "this section" in subsection
9 (d)(1)(vi) of this section and the introductory language of subsection (d)(5)
10 of this section, respectively, are broader than the references in former Art.
11 27, § 645Y(c)(6) and former Art. 27, § 645Y(e), respectively, to regulations
12 adopted under "this section" because former Art. 27, § 645 is also revised in
13 this section. However, no substantive change is intended.

14 In subsection (d)(1)(vi), (2)(iii), and (5) of this section, the former references
15 to a "rule" are deleted as included in the references to "regulation".
16 Similarly, in subsection (d)(2)(i) and (ii) of this section, the former
17 references to "rules" that the Administrator is required to adopt are
18 deleted as included in the references to "regulations". See General
19 Revisor's Note to this article.

20 In subsections (d)(2)(iii) and (e)(1) of this section, the defined term "court"
21 is substituted for the former references to a "judge" for clarity and
22 consistency within this subtitle. See General Revisor's Note to this
23 subtitle.

24 In subsection (d)(4)(iii) of this section, the reference to the "Administrator
25 or designee" is added to state expressly that which was only implied in the
26 former law.

27 In subsection (d)(4)(iii)1 of this section, the reference to any "remaining"
28 balance is added for consistency throughout this subtitle. See, e.g., §§
29 11-704(d)(4)(i) and 11-706(b)(5)(iv)1 of this subtitle.

30 The Correctional Services Article Review Committee notes, for
31 consideration by the General Assembly, that subsection (d)(4) of this
32 section sets forth rules governing the disposition of an inmate's earnings.
33 The Committee further notes that there are significant inconsistencies
34 throughout this article in statutory provisions governing the disposition of
35 an inmate's earnings in different contexts. See, e.g., §§ 3-804, 3-807(e)(1),
36 9-504(d), 9-512(b), 11-319(b), 11-407(b), 11-604, 11-704(d), 11-705(i),
37 11-706(b)(5), 11-707(b), 11-708(b)(7), 11-711(g), 11-712(c)(5),
38 11-714(c)(4), 11-715(e), 11-716(g), 11-717(e), 11-718(e), 11-719(b),
39 11-722(b), 11-724(g), and 11-725(b) of this article and accompanying
40 Revisor's Notes. The General Assembly may wish to examine all of the
41 relevant provisions and determine whether they should be changed to
42 reflect a more consistent policy in this area.

1 In the introductory language of subsection (d)(5) of this section, the
2 reference to a violation of "any provision of or fail[ure] to perform any duty
3 imposed by" a regulation adopted under this subsection is deleted as
4 included in the reference to a violation of "a regulation adopted under this
5 section".

6 In subsection (d)(5)(iii) of this section, the reference to a regulation adopted
7 under this "section" is substituted for the former inaccurate reference to a
8 regulation adopted under this "subsection". Former Art. 27, 645Y(e), which
9 is revised in subsection (d)(5) of this section, did not authorize the adoption
10 of regulations governing work release, training, and rehabilitation
11 programs. The authority to adopt regulations governing these programs
12 was granted by former Art. 27, § 645Y(d)(1), which is revised in subsection
13 (d)(2) of this section.

14 The Correctional Services Article Review Committee notes, for
15 consideration by the General Assembly, that subsections (d)(5)(ii) and (f)(4)
16 of this section are two of the many provisions in this article that relate to
17 inmates who escape while legitimately outside the confines of a
18 correctional facility (e.g., while on work release, home detention, pretrial
19 release, weekend leave, compassionate leave, family leave, etc.). For a
20 discussion of the Committee's perspective on these provisions, see §
21 3-305(c) of this article and accompanying Revisor's Note.

22 In subsection (e)(1) of this section, the former reference to a crime "for
23 which the court may assess a fine, court costs, or both" is deleted as
24 implied in the reference to the "satisf[action]" of "a fine or court costs".

25 Also in subsection (e)(1) of this section, the former reference to a work
26 program established under the jurisdiction of "the local office of" the
27 Division of Parole and Probation is deleted for accuracy. Currently, no such
28 work program exists. If a work program is created in the future, it would
29 be created under the jurisdiction of "the Division of Parole and Probation".

30 In subsection (e)(2) of this section, the former reference to the "original"
31 fine and court costs is deleted as implied in the reference to "the fine and
32 court costs".

33 Also in subsection (e)(2) of this section, the former reference to the fine and
34 court costs "imposed by the court" is deleted as implied in the reference to
35 "the fine and court costs".

36 The Correctional Services Article Review Committee notes, for
37 consideration by the General Assembly, that Anne Arundel County does
38 not have a farm labor program for its inmates nor does it plan to adopt one.
39 The General Assembly may wish to repeal subsection (f) of this section as
40 obsolete. If subsection (f) is not repealed, subsection (f)(2) of this section,
41 which allows "able-bodied male" inmates to be assigned to farm labor,
42 should be examined for conflicts with Article 46 of the Maryland

1 Declaration of Rights and the Americans with Disabilities Act.

2 The Correctional Services Article Review Committee also notes, for
3 consideration by the General Assembly, that subsection (f)(2)(ii) of this
4 section, which requires that the person requesting farm labor pay certain
5 costs, does not specify to whom the payments must be made or how it
6 relates to the requirement in subsection (f)(3) of this section that the
7 County Council reimburse the Administrator for similar costs. If
8 subsection (f) is not repealed, the General Assembly may wish to require
9 that a farmer pay the County for the specified costs and that the County
10 appropriate money to reimburse the Administrator.

11 In subsection (f)(2)(iii) of this section, the phrase "as they may deem
12 advisable", which formerly modified the reference to a superintendent's
13 authority to "require ... a payment in advance", is deleted as implied in the
14 broad grant of authority to the Administrator.

15 In subsection (f)(2) and (3) of this section, the references to the defined
16 term "Administrator" are substituted for the former references to
17 "superintendent of the county detention center" for consistency within this
18 section.

19 The Correctional Services Article Review Committee notes, for
20 consideration by the General Assembly, that subsection (f)(4) of this section
21 makes escape from a farm labor program a misdemeanor. However, under
22 Art. 27, § 139 of the Code, the crime of escape is a felony.

23 Defined terms: "Court" § 11-701

24 "Division of Parole and Probation" § 1-101

25 "Inmate" § 1-101

26 "Local correctional facility" § 1-101

27 "Person" § 1-101

28 11-704. BALTIMORE CITY.

29 (A) DEFINITION OF COMMISSIONER.

30 IN THIS SECTION, "COMMISSIONER" MEANS THE COMMISSIONER OF PRETRIAL
31 DETENTION AND SERVICES.

32 (B) SCOPE OF SECTION.

33 THIS SECTION APPLIES ONLY IN BALTIMORE CITY.

34 (C) WORK RELEASE, TRAINING, AND REHABILITATION PROGRAMS.

35 (1) THE COMMISSIONER MAY ALLOW AN INMATE OF THE BALTIMORE
36 CITY DETENTION CENTER TO PARTICIPATE IN ONE OF THE ACTIVITIES SPECIFIED IN
37 PARAGRAPH (2) OF THIS SUBSECTION DURING THE PERIOD OF CUSTODY IF THE
38 PARTICIPATION:

1 (I) IS APPROVED BY THE JUDGE ORDERING CONFINEMENT OR, IF
2 THAT JUDGE IS UNABLE TO ACT, BY ANOTHER JUDGE OF THE COMMITTING COURT;
3 AND

4 (II) IS IN ACCORDANCE WITH AVAILABLE PROGRAMS.

5 (2) SUBJECT TO PARAGRAPH (1) OF THIS SUBSECTION, AN INMATE MAY:

6 (I) CONTINUE REGULAR EMPLOYMENT;

7 (II) OBTAIN NEW EMPLOYMENT;

8 (III) PARTICIPATE IN A TRAINING, REHABILITATION, OR OTHER
9 SPECIAL PROGRAM; OR

10 (IV) ATTEND AN EDUCATIONAL INSTITUTION.

11 (3) (I) AN INMATE WHO IS AUTHORIZED TO PARTICIPATE IN A
12 PROGRAM UNDER THIS SUBSECTION SHALL BE HELD IN CUSTODY BETWEEN
13 PROGRAM HOURS OR PERIODS.

14 (II) THE COMMISSIONER OR COMMISSIONER'S DESIGNEE MAY
15 ALLOW AN INMATE WHO IS AUTHORIZED TO PARTICIPATE IN A PROGRAM UNDER
16 THIS SUBSECTION TO BE HELD IN CUSTODY THROUGH HOME DETENTION BY THE
17 USE OF ELECTRONIC MONITORING DEVICES.

18 (III) SUBJECT TO THE AVAILABILITY OF FUNDS, THE
19 COMMISSIONER MAY CONTRACT FOR HALFWAY HOUSES OR OTHER SUITABLE
20 HOUSING FACILITIES OR ELECTRONIC MONITORING DEVICES FOR INMATES
21 AUTHORIZED TO PARTICIPATE IN A PROGRAM UNDER THIS SUBSECTION.

22 (D) COLLECTION AND DISTRIBUTION OF WORK RELEASE INCOME.

23 (1) AN INMATE WHO IS EMPLOYED UNDER A WORK RELEASE PROGRAM
24 SHALL SURRENDER TO THE COMMISSIONER OR COMMISSIONER'S DESIGNEE THE
25 TOTAL EARNINGS OF THE INMATE UNDER THE PROGRAM, LESS PAYROLL
26 DEDUCTIONS REQUIRED BY LAW.

27 (2) FROM THE NET EARNINGS OF THE INMATE, THE COMMISSIONER OR
28 COMMISSIONER'S DESIGNEE SHALL DEDUCT IN THE FOLLOWING ORDER OF
29 PRIORITY:

30 (I) AN AMOUNT NOT TO EXCEED ONE-THIRD OF THE INMATE'S
31 NET EARNINGS FOR THE COST TO THE STATE OF PROVIDING FOOD, LODGING,
32 ELECTRONIC MONITORING DEVICES, AND CLOTHING FOR THE INMATE;

33 (II) THE ACTUAL AND NECESSARY FOOD, TRAVEL, AND OTHER
34 EXPENSES OF THE INMATE WHEN RELEASED FROM ACTUAL CUSTODY UNDER THE
35 PROGRAM;

1 (III) THE AMOUNT, IF ANY, THAT THE INMATE IS LEGALLY
 2 OBLIGATED TO PAY FOR THE SUPPORT OF A DEPENDENT BY COURT ORDER
 3 DIRECTED TO THE COMMISSIONER; AND

4 (IV) THE AMOUNT FOR COURT-ORDERED PAYMENTS FOR
 5 RESTITUTION.

6 (3) THE COMMISSIONER OR COMMISSIONER'S DESIGNEE SHALL PAY
 7 ANY AMOUNT DEDUCTED AS REQUIRED BY PARAGRAPH (2)(III) OF THIS SUBSECTION
 8 AS THE COURT ORDER DIRECTS.

9 (4) THE COMMISSIONER OR COMMISSIONER'S DESIGNEE SHALL:

10 (I) CREDIT TO THE INMATE'S ACCOUNT ANY REMAINING BALANCE;
 11 AND

12 (II) PAY THE BALANCE IN THE INMATE'S ACCOUNT TO THE INMATE
 13 ON RELEASE.

14 (5) IF ANY PART OF THE INMATE'S FINAL EARNINGS UNDER A WORK
 15 RELEASE PROGRAM ARE REQUIRED TO SATISFY THE DEDUCTIONS SPECIFIED IN
 16 PARAGRAPH (2) OF THIS SUBSECTION, THE BALANCE OF THE FINAL EARNINGS SHALL
 17 BE FORWARDED TO THE INMATE WITHIN 15 DAYS AFTER THE DATE OF RELEASE
 18 FROM THE BALTIMORE CITY DETENTION CENTER.

19 (E) WORK PROGRAM.

20 (1) A COURT MAY REQUIRE AN INDIVIDUAL WHO IS CONVICTED OF A
 21 CRIME TO SATISFY A FINE OR COURT COSTS BY PARTICIPATING IN A WORK PROGRAM
 22 ESTABLISHED UNDER THE JURISDICTION OF THE DIVISION OF PAROLE AND
 23 PROBATION IN BALTIMORE CITY.

24 (2) AN INDIVIDUAL WHO PARTICIPATES IN THE WORK PROGRAM SHALL
 25 RECEIVE A CREDIT OF AT LEAST THE FEDERAL MINIMUM WAGE PER HOUR TOWARD
 26 THE FINE OR COURT COSTS.

27 REVISOR'S NOTE: Subsection (a) of this section is new language added to
 28 avoid repetition of the full title of the "Commissioner of Pretrial Detention
 29 and Services".

30 Subsections (b), (c), (d), and (e) of this section are new language derived
 31 without substantive change from former Art. 27, §§ 645W and 645X.

32 Former Art. 27, § 645X(a), which is revised in subsection (b) of this section,
 33 was applicable only to subsection (e) of this section. In this revision, it is
 34 made applicable to subsections (c) and (d) of this section to clarify that
 35 these subsections also apply only in Baltimore City.

36 In subsection (c)(1) of this section, the reference to the defined term
 37 "inmate" is substituted for the former reference to "a person detained in"

1 the Baltimore City Detention Center for consistency throughout this
2 article.

3 Also in subsection (c)(1) of this section, the reference to "any time during a
4 period of confinement", which formerly described when the Commissioner
5 could allow an inmate to participate in an authorized activity, is deleted as
6 implied in the reference to the defined term "inmate".

7 In subsection (c)(3) of this section, the former reference to a "prescribed"
8 program is deleted as implied in the reference to "program".

9 In subsection (d)(1) and (2) of this section, the references to the earnings
10 "of the inmate" are added to clarify whose earnings are to be surrendered
11 and from whose earnings the required deductions are to be made.

12 In the introductory language of subsection (d)(4) of this section, the
13 reference to the "Commissioner or Commissioner's designee" is added to
14 state expressly that which was only implied in the former law.

15 In subsection (d)(4)(i) of this section, the phrase "remaining after these
16 deductions and payments", which formerly modified "[a]ny balance", is
17 deleted for consistency with other provisions in this subtitle. See, e.g., §§
18 11-703(d)(4)(iii) and 11-706(b)(5)(iv).

19 The Correctional Services Article Review Committee notes, for
20 consideration by the General Assembly, that subsection (d) of this section
21 sets forth rules governing the disposition of an inmate's earnings. The
22 Committee further notes that there are significant inconsistencies
23 throughout this article in statutory provisions governing the disposition of
24 an inmate's earnings in different contexts. See, e.g., §§ 3-804, 3-807(e)(1),
25 9-504(d), 9-512(b), 11-319(b), 11-407(b), 11-604, 11-703(d)(4), 11-705(i),
26 11-706(b)(5), 11-707(b), 11-708(b)(7), 11-711(g), 11-712(c)(5),
27 11-714(c)(4), 11-715(e), 11-716(g), 11-717(e), 11-718(e), 11-719(b),
28 11-722(b), 11-724(g), and 11-725(b) of this article and accompanying
29 Revisor's Notes. The General Assembly may wish to examine all of the
30 relevant provisions and determine whether they should be changed to
31 reflect a more consistent policy in this area.

32 In subsection (d)(5) of this section, the reference to "any part of" the
33 inmate's final earnings remaining after deductions under subsection (d)(2)
34 of this section is added to state expressly that which was formerly only
35 implied in the reference to the inmate's "final earnings".

36 Also in subsection (d)(5) of this section, the former reference to "obligatory"
37 deductions is deleted as implied in the reference to deductions "specified in
38 paragraph (2) of this subsection".

39 In subsection (e)(1) of this section, the references to an "individual" are
40 substituted for the former references to a "person" or a "defendant" because
41 only a human being, and not the other entities included in the defined

1 term "person", can participate in a work program and for consistency
2 within this subsection. See § 1-101 of this article for the definition of
3 "person".

4 Also in subsection (e)(1) of this section, the defined term "court" is
5 substituted for the former reference to a "judge" for clarity and consistency
6 within this subtitle. See General Revisor's Note to this subtitle.

7 Also in subsection (e)(1) of this section, the former reference to an
8 individual who is "fined or assessed court costs" is deleted as implied in the
9 reference to "satisfy[ing] a fine or court costs".

10 Also in subsection (e)(1) of this section, the former reference to a work
11 program established under the jurisdiction of "one of the offices of" the
12 Division of Parole and Probation is deleted for accuracy. Currently, no such
13 work program exists. If a work program is created in the future, it would
14 be created under the "jurisdiction" of "the Division of Parole and
15 Probation".

16 Defined terms: "Court" § 11-701

17 "Division of Parole and Probation" § 1-101

18 "Inmate" § 1-101

19 11-705. BALTIMORE COUNTY.

20 (A) DEFINITIONS.

21 (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
22 INDICATED.

23 (2) "ADMINISTRATOR" MEANS THE ADMINISTRATOR OF THE BALTIMORE
24 COUNTY DETENTION FACILITIES OR THE ADMINISTRATOR'S DESIGNEE.

25 (3) "LEAVE" MEANS AUTHORIZED TIME AWAY FROM A BALTIMORE
26 COUNTY DETENTION FACILITY.

27 (4) "PARTICIPANT" MEANS AN INMATE IN A BALTIMORE COUNTY
28 DETENTION FACILITY WHO PARTICIPATES IN A PROGRAM UNDER THIS SECTION.

29 (B) SCOPE OF SECTION.

30 THIS SECTION APPLIES ONLY IN BALTIMORE COUNTY.

31 (C) WORK RELEASE PROGRAM -- AUTHORITY TO ESTABLISH.

32 (1) THE ADMINISTRATOR MAY ESTABLISH AND ADMINISTER A WORK
33 RELEASE PROGRAM.

34 (2) IF THE ADMINISTRATOR ESTABLISHES A WORK RELEASE PROGRAM,
35 THE ADMINISTRATOR SHALL ESTABLISH:

- 1 (I) ELIGIBILITY CRITERIA FOR PARTICIPATION IN THE PROGRAM;
2 AND
- 3 (II) FOR EACH PARTICIPANT, A WORK RELEASE PLAN THAT
4 INCLUDES THE TERMS AND CONDITIONS OF THE WORK RELEASE AND EMPLOYMENT.
- 5 (D) SAME -- PARTICIPATION IS A PRIVILEGE.
- 6 (1) PARTICIPATION IN THE WORK RELEASE PROGRAM IS A PRIVILEGE
7 AUTHORIZED BY COURT.
- 8 (2) THIS SECTION DOES NOT CREATE A RIGHT TO PARTICIPATE IN THE
9 WORK RELEASE PROGRAM OR TO REMAIN IN THE PROGRAM AFTER THE
10 PARTICIPANT HAS BEEN SUSPENDED OR REMOVED FROM THE PROGRAM.
- 11 (E) SAME -- RECOMMENDATION BY ADMINISTRATOR.
- 12 THE ADMINISTRATOR MAY RECOMMEND TO A COURT THAT AN INDIVIDUAL
13 PARTICIPATE IN THE WORK RELEASE PROGRAM IF:
- 14 (1) THE INDIVIDUAL HAS APPLIED TO PARTICIPATE IN THE PROGRAM;
15 AND
- 16 (2) THE ADMINISTRATOR HAS APPROVED THE APPLICATION.
- 17 (F) SAME -- AUTHORIZATION BY COURT.
- 18 IF THE ADMINISTRATOR RECOMMENDS PARTICIPATION IN THE WORK RELEASE
19 PROGRAM, A COURT MAY AUTHORIZE AN INDIVIDUAL TO PARTICIPATE IN THE
20 PROGRAM:
- 21 (1) WHEN THE COURT IMPOSES A SENTENCE;
- 22 (2) WHEN THE COURT COMMITS AN INDIVIDUAL TO THE CUSTODY OF A
23 BALTIMORE COUNTY DETENTION FACILITY; OR
- 24 (3) AT ANY TIME DURING THE INDIVIDUAL'S CONFINEMENT.
- 25 (G) SAME -- SUSPENSION AND REMOVAL.
- 26 (1) THE ADMINISTRATOR MAY SUSPEND OR REMOVE A PARTICIPANT
27 FROM THE WORK RELEASE PROGRAM:
- 28 (I) AT ANY TIME;
- 29 (II) WITHOUT PRIOR APPROVAL FROM THE COURT; AND
- 30 (III) FOR ANY REASON THAT THE ADMINISTRATOR DETERMINES.

1 (2) THE ADMINISTRATOR SHALL NOTIFY THE COURT WITHIN 15 DAYS
2 AFTER THE ADMINISTRATOR SUSPENDS OR REMOVES A PARTICIPANT FROM THE
3 WORK RELEASE PROGRAM.

4 (H) SAME -- VIOLATION OF TERMS AND CONDITIONS.

5 AN INMATE WHO VIOLATES A TERM OF LEAVE GRANTED UNDER THIS SECTION
6 IS SUBJECT TO THE PENALTIES ESTABLISHED UNDER ARTICLE 27, § 139 OF THE
7 CODE.

8 (I) SAME -- COLLECTION AND DISTRIBUTION OF WORK RELEASE INCOME.

9 (1) THE ADMINISTRATOR SHALL COLLECT EACH PARTICIPANT'S TOTAL
10 EARNINGS, LESS PAYROLL DEDUCTIONS.

11 (2) FROM THE PARTICIPANT'S EARNINGS, THE ADMINISTRATOR:

12 (I) MAY PAY THE REASONABLE COST TO THE COUNTY OF
13 PROVIDING FOOD, LODGING, AND CLOTHING FOR THE PARTICIPANT;

14 (II) MAY MAKE COURT-ORDERED PAYMENTS FOR DEPENDENTS;

15 (III) MAY PAY COURT-ORDERED COSTS, FINES, AND RESTITUTION;

16 (IV) IF ORDERED BY THE COURT, MAY REIMBURSE THE STATE FOR
17 THE COURT-APPOINTED COUNSEL; AND

18 (V) IF ORDERED BY THE COURT, MAY REIMBURSE THE STATE FOR
19 THE SERVICES OF THE PUBLIC DEFENDER.

20 (3) ANY BALANCE THAT REMAINS AFTER PAYMENTS ARE MADE UNDER
21 PARAGRAPH (2) OF THIS SUBSECTION:

22 (I) SHALL BE CREDITED TO AN ACCOUNT HELD BY THE
23 ADMINISTRATOR FOR THE PARTICIPANT; AND

24 (II) IF THE ADMINISTRATOR APPROVES, SHALL BE DISPOSED OF AS
25 REQUESTED BY THE PARTICIPANT.

26 (4) ANY BALANCE REMAINING IN THE PARTICIPANT'S ACCOUNT WHEN
27 THE PARTICIPANT IS RELEASED FROM THE DETENTION FACILITY SHALL BE PAID TO
28 THE PARTICIPANT.

29 (J) SAME -- AGENCY.

30 A PARTICIPANT EMPLOYED IN THE COMMUNITY UNDER THIS SECTION IS NOT
31 AN AGENT OR EMPLOYEE OF BALTIMORE COUNTY, THE ADMINISTRATOR, ANY
32 JUDICIAL OFFICER, OR ANY OTHER PUBLIC OFFICER OF THE COUNTY OR STATE.

33 (K) SAME -- FEE.

1 THE ADMINISTRATOR MAY CHARGE A PARTICIPANT A REASONABLE FEE IN AN
2 AMOUNT NOT TO EXCEED THE ACTUAL COSTS INCURRED BY THE COUNTY FOR FOOD,
3 TRAVEL, AND OTHER EXPENSES RELATED TO THE PARTICIPANT'S PARTICIPATION IN
4 THE WORK RELEASE PROGRAM.

5 (L) HOME DETENTION PROGRAM -- AUTHORITY TO ESTABLISH.

6 (1) THE ADMINISTRATOR MAY ESTABLISH AND ADMINISTER A HOME
7 DETENTION PROGRAM.

8 (2) IF THE ADMINISTRATOR ESTABLISHES A HOME DETENTION
9 PROGRAM, THE ADMINISTRATOR:

10 (I) SHALL ESTABLISH ELIGIBILITY CRITERIA FOR PARTICIPATION
11 IN THE PROGRAM; AND

12 (II) FOR EACH PARTICIPANT, SHALL ESTABLISH A HOME
13 DETENTION PLAN THAT INCLUDES THE TERMS AND CONDITIONS OF THE HOME
14 DETENTION.

15 (M) SAME -- PARTICIPATION IS A PRIVILEGE.

16 (1) PARTICIPATION IN THE HOME DETENTION PROGRAM IS A PRIVILEGE
17 AUTHORIZED BY COURT.

18 (2) THIS SECTION DOES NOT CREATE A RIGHT TO PARTICIPATE IN THE
19 HOME DETENTION PROGRAM OR TO REMAIN IN THE PROGRAM AFTER THE
20 PARTICIPANT HAS BEEN SUSPENDED OR REMOVED FROM THE PROGRAM.

21 (N) SAME -- RECOMMENDATION BY ADMINISTRATOR.

22 THE ADMINISTRATOR MAY RECOMMEND TO A COURT THAT AN INDIVIDUAL
23 PARTICIPATE IN THE HOME DETENTION PROGRAM IF:

24 (1) THE INDIVIDUAL HAS APPLIED TO PARTICIPATE IN THE PROGRAM;

25 (2) EXCEPT FOR A VIOLATION OF THE TRANSPORTATION ARTICLE OR
26 OTHER TRAFFIC LAW OR ORDINANCE FOR WHICH A PENALTY OF INCARCERATION IS
27 NOT AUTHORIZED, THE INDIVIDUAL HAS NO OTHER CHARGES PENDING IN ANY
28 MUNICIPAL CORPORATION, COUNTY, OR STATE; AND

29 (3) THE ADMINISTRATOR HAS APPROVED THE APPLICATION.

30 (O) SAME -- AUTHORIZATION BY COURT.

31 IF THE ADMINISTRATOR RECOMMENDS PARTICIPATION IN THE HOME
32 DETENTION PROGRAM, A COURT MAY AUTHORIZE AN INDIVIDUAL TO PARTICIPATE
33 IN THE PROGRAM:

34 (1) AFTER IMPOSING A SENTENCE; OR

1 (2) AT ANY TIME DURING THE INDIVIDUAL'S CONFINEMENT.

2 (P) SAME -- SUSPENSION AND REMOVAL.

3 (1) THE ADMINISTRATOR MAY SUSPEND OR REMOVE A PARTICIPANT
4 FROM THE HOME DETENTION PROGRAM:

5 (I) AT ANY TIME;

6 (II) WITHOUT PRIOR APPROVAL FROM THE COURT; AND

7 (III) FOR ANY REASON THAT THE ADMINISTRATOR DETERMINES.

8 (2) THE ADMINISTRATOR SHALL NOTIFY THE COURT WITHIN 15 DAYS
9 AFTER THE ADMINISTRATOR SUSPENDS OR REMOVES A PARTICIPANT FROM THE
10 HOME DETENTION PROGRAM.

11 (Q) SAME -- ELIGIBILITY.

12 A PARTICIPANT IS NOT ELIGIBLE FOR THE HOME DETENTION PROGRAM IF THE
13 PARTICIPANT:

14 (1) IS SERVING A SENTENCE FOR A CRIME OF VIOLENCE; OR

15 (2) HAS BEEN FOUND GUILTY OF:

16 (I) CHILD ABUSE UNDER ARTICLE 27, § 35C OF THE CODE; OR

17 (II) ESCAPE UNDER ARTICLE 27, § 139 OF THE CODE.

18 (R) SAME -- FEE.

19 THE ADMINISTRATOR MAY CHARGE A REASONABLE FEE FOR THE ACTUAL COST
20 OF ELECTRONIC SUPERVISION AND OTHER ADMINISTRATIVE COSTS OF THE
21 PROGRAM.

22 (S) REGULATIONS.

23 THE ADMINISTRATOR MAY ADOPT REGULATIONS TO CARRY OUT THIS SECTION.

24 REVISOR'S NOTE: Subsections (a) and (c) through (s) of this section are new
25 language derived without substantive change from former Art. 27, §
26 645NN.

27 Subsection (b) of this section is new language added to clarify that this
28 section applies only in Baltimore County.

29 In subsection (a)(4) of this section, the reference to the defined term
30 "inmate" is substituted for the former reference to an "adult individual" for
31 consistency throughout this article.

- 1 Also in subsection (a)(4) of this section, the former reference to an inmate
2 who is confined "to imprisonment" is deleted as redundant.
- 3 In subsection (c)(1) of this section, the former reference to establishing a
4 work release program "in Baltimore County" is deleted as unnecessary in
5 light of subsection (b) of this section.
- 6 In subsections (d)(1) and (m)(1) of this section, the former references to
7 participation "by a participant" are deleted as redundant.
- 8 In the introductory language of subsections (e) and (n) of this section, the
9 references to a "court" are substituted for the former references to a "judge"
10 for consistency with subsection (f) of this section.
- 11 In subsections (f)(3) and (o)(2) of this section, the references to an
12 individual's "confinement" are substituted for the former references to an
13 individual's "incarceration" for consistency throughout this article. See
14 General Revisor's Note to this article.
- 15 The Correctional Services Article Review Committee notes, for
16 consideration by the General Assembly, that subsection (h) of this section is
17 one of many provisions in this article that relates to inmates who escape
18 while legitimately outside the confines of a correctional facility (e.g., while
19 on work release, home detention, pretrial release, weekend leave,
20 compassionate leave, family leave, etc.). For a discussion of the
21 Committee's perspective on these provisions, see § 3-305(c) of this article
22 and accompanying Revisor's Note.
- 23 In subsection (i)(2)(iv) of this section, the reference to "reimburs[ing]" the
24 State is substituted for the former reference to "mak[ing] repayment to"
25 the State for brevity.
- 26 In subsection (i)(2)(v) of this section, the reference to "reimburs[ing]" the
27 State is substituted for the former reference to "mak[ing] court-ordered
28 repayment to" the State for brevity and clarity. The reference to
29 "court-ordered" repayment is unnecessary in light of the first clause of
30 subsection (i)(2)(v) of this section.
- 31 In subsection (i)(3) of this section, the former reference to any balance "in
32 the participant's total earnings" is deleted as implicit in the reference to
33 "any balance".
- 34 The Correctional Services Article Review Committee notes, for
35 consideration by the General Assembly, that subsection (i) of this section
36 sets forth rules governing the disposition of an inmate's earnings. The
37 Committee further notes that there are significant inconsistencies
38 throughout this article in statutory provisions governing the disposition of
39 an inmate's earnings in different contexts. See, e.g., §§ 3-804, 3-807(e)(1),
40 9-504(d), 9-512(b), 11-319(b), 11-407(b), 11-604, 11-703(d)(4), 11-704(d),
41 11-706(b)(5), 11-707(b), 11-708(b)(7), 11-711(g), 11-712(c)(5),

1 11-714(c)(4), 11-715(e), 11-716(g), 11-717(e), 11-718(e), 11-719(b),
2 11-722(b), 11-724(g), and 11-725(b) of this article and accompanying
3 Revisor's Notes. The General Assembly may wish to examine all of the
4 relevant provisions and determine whether they should be changed to
5 reflect a more consistent policy in this area.

6 In subsection (j) of this section, the reference to any "other" judicial officer
7 is deleted to avoid the implication that the Administrator or any other
8 agent or employee of Baltimore County is "judicial" in nature.

9 In subsection (k) of this section, the former reference to "other related
10 costs" is deleted as unnecessary in light of the comprehensive reference to
11 "food, travel, and other expenses related to ... participation in the work
12 release program".

13 In subsection (l)(1) of this section, the reference to establishing a home
14 detention program "in Baltimore County" is deleted as unnecessary in
15 light of subsection (b) of this section.

16 Defined terms: "Court" § 11-701

17 "Crime of violence" § 11-701

18 "Inmate" § 1-101

19 11-706. CALVERT COUNTY.

20 (A) SCOPE OF SECTION.

21 THIS SECTION APPLIES ONLY IN CALVERT COUNTY.

22 (B) WORK RELEASE PROGRAM.

23 (1) AT THE TIME OF SENTENCING OR ON A HEARING OF A MOTION FOR
24 RECONSIDERATION OF SENTENCE, THE COURT MAY SENTENCE AN INDIVIDUAL WHO
25 HAS BEEN CONVICTED OF A CRIME TO PARTICIPATE FOR A FIXED PERIOD IN THE
26 WORK RELEASE PROGRAM AT THE CALVERT COUNTY DETENTION CENTER.

27 (2) AFTER AN INMATE ENTERS THE WORK RELEASE PROGRAM, THE
28 SENTENCING JUDGE OR, IF THE SENTENCING JUDGE IS UNABLE TO ACT, THE JUDGE
29 OF ANY COURT IN THE COUNTY MAY:

30 (I) ORDER THE RELEASE OF THE INMATE FROM CUSTODY; AND

31 (II) CONSIDER THE SUPERVISOR'S RECOMMENDATIONS AND
32 REPORT OF THE INMATE'S PERFORMANCE IN MAKING A DETERMINATION TO
33 RELEASE THE INMATE.

34 (3) SUBJECT TO THE DIRECTIVES AND ORDERS OF THE COURTS IN THE
35 COUNTY, THE SUPERVISOR OF THE COUNTY WORK RELEASE PROGRAM SHALL
36 ESTABLISH AND ADMINISTER THE WORK RELEASE PROGRAM.

1 (4) DURING REASONABLE HOURS, AN INMATE IN THE WORK RELEASE
2 PROGRAM MAY LEAVE CONFINEMENT TO:

3 (I) WORK AT GAINFUL EMPLOYMENT;

4 (II) PARTICIPATE IN AN OUTSIDE COUNSELING OR
5 REHABILITATIVE PROGRAM; OR

6 (III) OBTAIN OTHER SERVICES THAT THE SUPERVISOR OF THE
7 PROGRAM CONSIDERS NECESSARY.

8 (5) (I) AN INMATE WHO IS EMPLOYED IN ACCORDANCE WITH THIS
9 SUBSECTION SHALL SURRENDER TO THE SUPERVISOR OF THE PROGRAM THE
10 INMATE'S TOTAL EARNINGS, LESS PAYROLL DEDUCTIONS REQUIRED BY LAW.

11 (II) FROM THE EARNINGS OF THE INMATE, THE SUPERVISOR SHALL
12 DEDUCT AND DISBURSE IN THE FOLLOWING ORDER OF PRIORITY:

13 1. FOOD COSTS TO THE COUNTY;

14 2. LODGING COSTS TO THE COUNTY;

15 3. TRAVEL COSTS TO THE COUNTY;

16 4. FINES AND COSTS IMPOSED BY THE COURT;

17 5. AMOUNTS THAT THE INMATE IS OBLIGATED TO PAY FOR
18 SUPPORT OF A DEPENDENT; AND

19 6. COURT-ORDERED PAYMENTS FOR RESTITUTION.

20 (III) THE SUPERVISOR OF THE PROGRAM MAY ASSIST IN THE
21 FINANCIAL MANAGEMENT OF THE INMATE'S OTHER BILLS AND DEBTS.

22 (IV) THE SUPERVISOR OF THE PROGRAM SHALL:

23 1. CREDIT TO THE INMATE'S ACCOUNT ANY REMAINING
24 BALANCE; AND

25 2. PAY THE BALANCE IN THE INMATE'S ACCOUNT TO THE
26 INMATE ON FINAL RELEASE FROM CONFINEMENT.

27 (6) AN INMATE EMPLOYED IN THE COMMUNITY UNDER THIS
28 SUBSECTION IS NOT AN AGENT OR EMPLOYEE OF THE COUNTY, THE SHERIFF, ANY
29 JUDICIAL OFFICER, OR ANY PUBLIC OFFICER OF THE COUNTY.

30 (7) AN INMATE WHO VIOLATES A TRUST OR A CONDITION THAT THE
31 SUPERVISOR ESTABLISHES FOR CONDUCT AND EMPLOYMENT IS SUBJECT TO:

32 (I) REMOVAL FROM THE PROGRAM; AND

1 (II) CANCELLATION OF ANY EARNED DIMINUTION OF THE
2 INMATE'S TERM OF CONFINEMENT.

3 (8) THE FAILURE OF AN INMATE TO COMPLY WITH THE TERMS OF THE
4 INMATE'S AUTHORIZATION FOR LEAVE IS A VIOLATION OF ARTICLE 27, § 139 OF THE
5 CODE.

6 (C) COMMUNITY SERVICES ALTERNATIVE SENTENCING PROGRAM.

7 (1) IN THIS SUBSECTION, "PROGRAM" MEANS THE COMMUNITY
8 SERVICES ALTERNATIVE SENTENCING PROGRAM.

9 (2) THERE IS A COMMUNITY SERVICES ALTERNATIVE SENTENCING
10 PROGRAM IN THE COUNTY DEPARTMENT OF PUBLIC SAFETY.

11 (3) THE PROGRAM SHALL ADMINISTER COMMUNITY SERVICE PROJECTS
12 FOR INDIVIDUALS WHO ARE CONVICTED OF AN OFFENSE AND ARE REFERRED TO
13 THE PROGRAM BY A COURT.

14 (4) THE COUNTY COMMISSIONERS MAY CHARGE A REASONABLE FEE TO
15 INDIVIDUALS WHO PARTICIPATE IN THE PROGRAM TO HELP DEFRAY PROGRAM
16 EXPENSES.

17 (D) REIMBURSEMENT FOR SUBSTANCE ABUSE TREATMENT PROGRAM.

18 (1) (I) AN INDIVIDUAL WHO IS SENTENCED TO PARTICIPATE IN THE
19 SUBSTANCE ABUSE TREATMENT PROGRAM AT THE COUNTY TREATMENT FACILITY
20 SHALL PAY A PER DIEM FEE IN AN AMOUNT THAT THE COURT DETERMINES TO
21 COVER FOOD, LODGING, CLOTHING, AND OTHER EXPENSES INCIDENTAL TO
22 PARTICIPATION IN THE TREATMENT PROGRAM.

23 (II) A COURT MAY WAIVE PART OR ALL OF THE FEE BASED ON AN
24 INDIVIDUAL'S ABILITY TO PAY.

25 (2) THE COUNTY ATTORNEY MAY BRING A CIVIL ACTION TO COLLECT
26 ANY ARREARAGE INCIDENTAL TO THE PER DIEM CHARGE THAT REMAINS UNPAID 30
27 DAYS AFTER THE INDIVIDUAL'S DISCHARGE FROM THE COUNTY TREATMENT
28 FACILITY.

29 REVISOR'S NOTE: Subsection (a) of this section is new language added to
30 clarify that this section applies only in Calvert County.

31 Subsections (b), (c), and (d) of this section are new language derived
32 without substantive change from former Art. 27, §§ 645Z, 645ZA, and
33 645ZB.

34 Throughout this section, the former references to "Calvert County" are
35 deleted as unnecessary in light of subsection (a) of this section.

36 In subsections (b)(1) and (c)(3) and (4) of this section, the references to

1 "individual" and "individuals" are substituted for the former references to
2 "defendant" and "defendants", respectively, for consistency within this
3 subtitle. Only the terms "individual" or "inmate" are used to apply to
4 individuals who participate in programs under this subtitle except in §§
5 11-703 and 11-705 of this subtitle, where the defined term "participant" is
6 also used.

7 In subsections (b)(1) and (d)(1)(ii) of this section, the reference to a "court"
8 is substituted for the former reference to the "Circuit Court or District
9 Court in Calvert County" for brevity. Also, the reference to a court "in
10 Calvert County" is unnecessary in light of subsection (a) of this section.
11 Similarly, in subsection (b)(3) of this section, the reference to "the courts in
12 the County" is substituted for the former reference to "the judges of the
13 District and Circuit Courts of the County".

14 The Correctional Services Article Review Committee notes, for
15 consideration by the General Assembly, that the reference to the defined
16 term "court" in subsection (b)(2) of this section may be narrower than the
17 reference to "court" in former Art. 27, § 645Z(a)(2) because it does not
18 include the orphans' court. See § 11-701 of this article for the definition of
19 "court". The Committee believes that this is an appropriate use of the term
20 "court" because the orphans' court should not have authority to order the
21 release of an inmate from custody. The General Assembly may wish to
22 restrict the authority granted under subsection (b)(2) of this section to
23 judges of "the committing court". See, e.g., §§ 11-704(c)(1)(i),
24 11-712(c)(2)(ii), and 11-717(d)(1) and (2) and (f)(3) of this subtitle.

25 In subsection (b)(3) of this section, the requirement that "the supervisor ...
26 establish and administer" the program is substituted for the former
27 reference to "establish[ing] and administer[ing]" the program "under the
28 jurisdiction of the supervisor" for clarity and brevity.

29 In the introductory language of subsection (b)(4) of this section, the former
30 reference to an inmate leaving confinement "when necessary" is deleted as
31 unnecessary in light of the specific circumstances listed in subsection
32 (b)(4)(i) through (iii) of this section.

33 In subsection (b)(4) of this section, the reference to the defined term
34 "inmate" is substituted for the former reference to "defendants" for
35 consistency with subsection (b)(2), (5), (6), and (7) of this section.

36 In subsection (b)(5)(i) of this section, the word "required" is substituted for
37 the former word "received" for consistency within this subtitle. See, e.g., §§
38 11-704(d)(1) and 11-711(g)(1).

39 In subsection (b)(5)(iv) of this section, the reference to the "supervisor of
40 the program" is added to state expressly that which was only implied in
41 the former law.

42 In subsection (b)(5)(iv)1 of this section, the phrase "remaining balance" is

1 substituted for the former phrase "balance remaining after such
2 deductions and disbursements" for brevity and consistency within this
3 subtitle. See, e.g., §§ 11-703(d)(4)(iii) and 11-704(d)(4)(i) of this subtitle.

4 In subsection (b)(5)(iv)2 of this section, the reference to "pay[ing] the
5 balance" is substituted for the former reference to "turn[ing] over" the
6 balance for consistency within this subtitle. See, e.g., § 11-704(d)(4).

7 The Correctional Services Article Review Committee notes, for
8 consideration by the General Assembly, that subsection (b)(5) of this
9 section sets forth rules governing the disposition of an inmate's earnings.
10 The Committee further notes that there are significant inconsistencies
11 throughout this article in statutory provisions governing the disposition of
12 an inmate's earnings in different contexts. See, e.g., §§ 3-804, 3-807(e)(1),
13 9-504(d), 9-512(b), 11-319(b), 11-407(b), 11-604, 11-703(d)(4), 11-704(d),
14 11-705(i), 11-707(b), 11-708(b)(7), 11-711(g), 11-712(c)(5), 11-714(c)(4),
15 11-715(e), 11-716(g), 11-717(e), 11-718(e), 11-719(b), 11-722(b),
16 11-724(g), and 11-725(b) of this article and accompanying Revisor's Notes.
17 The General Assembly may wish to examine all of the relevant provisions
18 and determine whether they should be changed to reflect a more consistent
19 policy in this area.

20 In subsection (b)(6) of this section, the phrase "is not an agent or employee"
21 is substituted for the former phrase "may not be considered to be an agent
22 or employee" for consistency within this subtitle. See, e.g., § 11-703(c)(3).

23 Also in subsection (b)(6) of this section, the former reference to any "other"
24 judicial officer is deleted to avoid the implication that the Sheriff or County
25 is "judicial" in nature.

26 Also in subsection (b)(6) of this section, the former reference to any judicial
27 officer "of the County" is deleted for accuracy. There are no judicial officers
28 of the County. All courts in the County are State courts.

29 The Correctional Services Article Review Committee notes, for
30 consideration by the General Assembly, that subsection (b)(6) of this
31 section could be clarified by substituting a reference to "the court" for the
32 more ambiguous reference to "judicial officer".

33 In subsection (b)(7)(ii) of this section, the reference to diminution "of the
34 inmate's term of confinement" is added for consistency throughout this
35 article. See General Revisor's Note to this article.

36 The Correctional Services Article Review Committee notes, for
37 consideration by the General Assembly, that subsection (b)(8) of this
38 section is one of many provisions in this article that relates to inmates who
39 escape while legitimately outside the confines of a correctional facility
40 (e.g., while on work release, home detention, pretrial release, weekend
41 leave, compassionate leave, family leave, etc.). For a discussion of the
42 Committee's perspective on these provisions, see § 3-305(c) of this article

1 and accompanying Revisor's Note.

2 In subsection (d)(1)(i) of this section, the phrase "shall pay" is substituted
3 for the former phrase "shall be obligated to pay" for brevity.

4 In subsection (d)(2) of this section, the reference to the authority to "bring"
5 a civil action is substituted for the former reference to the authority to
6 "maintain" a civil action for consistency with other revised articles of the
7 Code. See, e.g., IN § 8-511(b)(2).

8 Defined terms: "Court" § 11-701

9 "Inmate" § 1-101

10 11-707. CAROLINE COUNTY.

11 (A) SCOPE OF SECTION.

12 THIS SECTION APPLIES ONLY IN CAROLINE COUNTY.

13 (B) INMATE PAYMENTS.

14 WHILE CONFINED IN THE CAROLINE COUNTY JAIL, AN INMATE EMPLOYED
15 UNDER § 11-602 OF THIS TITLE SHALL PAY:

16 (1) COURT-ORDERED PAYMENTS FOR RESTITUTION; AND

17 (2) THE COST OF THE INMATE'S FOOD, LODGING, AND CLOTHING.

18 (C) DUTIES OF COUNTY COMMISSIONERS.

19 THE COUNTY COMMISSIONERS SHALL:

20 (1) ESTABLISH THE PER DIEM RATE FOR AN INMATE'S FOOD, LODGING,
21 AND CLOTHING; AND

22 (2) DESIGNATE AN AGENT TO COLLECT THE COSTS SPECIFIED IN THIS
23 SECTION.

24 REVISOR'S NOTE: Subsection (a) of this section is new language added to
25 clarify that this section applies only in Caroline County.

26 Subsections (b) and (c) of this section are new language derived without
27 substantive change from former Art. 27, § 645AA, as it applied in Caroline
28 County.

29 In subsection (b) of this section, the reference to "confined" is substituted
30 for the former reference to "incarcerated" for consistency throughout this
31 article. See General Revisor's Note to this article.

32 Also in subsection (b) of this section, the phrase "while in the jail", which
33 formerly modified the reference to "the cost of their own food, lodging, and

1 clothing", is deleted as unnecessary in light of the reference in the
 2 introductory language of this subsection to an inmate "[w]hile confined in
 3 the Caroline County Jail".

4 The Correctional Services Article Review Committee notes, for
 5 consideration by the General Assembly, that subsection (b) of this section
 6 sets forth rules governing the disposition of an inmate's earnings. The
 7 Committee further notes that there are significant inconsistencies
 8 throughout this article in statutory provisions governing the disposition of
 9 an inmate's earnings in different contexts. See, e.g., §§ 3-804, 3-807(e)(1),
 10 9-504(d), 9-512(b), 11-319(b), 11-407(b), 11-604, 11-703(d)(4), 11-704(d),
 11 11-705(i), 11-708(b)(7), 11-711(g), 11-712(c)(5), 11-714(c)(4), 11-715(e),
 12 11-716(g), 11-717(e), 11-718(e), 11-719(b), 11-722(b), 11-724(g), and
 13 11-725(b) of this article and accompanying Revisor's Notes. The General
 14 Assembly may wish to examine all of the relevant provisions and
 15 determine whether they should be changed to reflect a more consistent
 16 policy in this area.

17 In the introductory language of subsection (c) of this section, the phrase
 18 "[i]n their respective counties", which formerly modified the reference to
 19 the duties of the County Commissioners to "[e]stablish the per diem rate"
 20 and "[d]esignate an agent", is deleted as unnecessary because this section
 21 applies only in Caroline County. See § 11-725 of this subtitle for the
 22 revision of former Art. 27, § 645AA as it applied to Worcester County.

23 In subsection (c)(1) of this section, the reference to "an inmate's" food,
 24 lodging, and clothing is added to state expressly that which was only
 25 implied in the former reference to "food, lodging, and clothing".

26 Defined terms: "Court" § 11-701

27 "Inmate" § 1-101

28 11-708. CARROLL COUNTY.

29 (A) SCOPE OF SECTION.

30 THIS SECTION APPLIES ONLY IN CARROLL COUNTY.

31 (B) WORK RELEASE PROGRAM AND REHABILITATION ACTIVITIES.

32 (1) THE SHERIFF'S DEPARTMENT MAY ESTABLISH A WORK RELEASE
 33 PROGRAM.

34 (2) AT THE TIME OF SENTENCING OR AT ANY TIME DURING AN
 35 INDIVIDUAL'S CONFINEMENT, THE COURT MAY SENTENCE THE INDIVIDUAL TO
 36 PARTICIPATE IN THE WORK RELEASE PROGRAM IF THE INDIVIDUAL:

37 (I) HAS BEEN SENTENCED TO THE CUSTODY OF THE SHERIFF; AND

38 (II) HAS NO OTHER CHARGES PENDING IN ANY JURISDICTION.

1 (3) AN INMATE WHO HAS BEEN SENTENCED TO PARTICIPATE IN THE
2 WORK RELEASE PROGRAM MAY CONTINUE REGULAR EMPLOYMENT OR OBTAIN NEW
3 EMPLOYMENT.

4 (4) IF THE SHERIFF'S DEPARTMENT APPROVES, AN INMATE WHO HAS
5 BEEN SENTENCED TO THE CARROLL COUNTY DETENTION CENTER MAY LEAVE THE
6 DETENTION CENTER TO WORK OR TO SEEK EMPLOYMENT.

7 (5) AN INMATE WHO HAS BEEN ORDERED BY A COURT TO PARTICIPATE
8 IN A REHABILITATIVE ACTIVITY MAY LEAVE THE CARROLL COUNTY DETENTION
9 CENTER UNDER THE SUPERVISION OF THE SHERIFF'S DEPARTMENT.

10 (6) AN INMATE WHO HAS BEEN SENTENCED TO THE CARROLL COUNTY
11 DETENTION CENTER SHALL BE CONFINED TO THE DETENTION CENTER:

12 (I) EXCEPT AS PROVIDED IN THIS SUBSECTION; OR

13 (II) UNLESS A COURT ORDERS OTHERWISE.

14 (7) AN INMATE WHO IS EMPLOYED UNDER THE WORK RELEASE
15 PROGRAM SHALL:

16 (I) REIMBURSE THE SHERIFF'S DEPARTMENT FOR:

17 1. THE ESTIMATED COST TO THE DEPARTMENT OF FOOD
18 AND LODGING FOR THE INMATE; AND

19 2. ESTIMATED EXPENSES INCURRED BY THE DEPARTMENT
20 BECAUSE OF THE PARTICIPATION OF THE INMATE IN THE PROGRAM; AND

21 (II) PAY TO THE SHERIFF COURT-ORDERED PAYMENTS FOR
22 RESTITUTION.

23 (8) (I) AN INMATE WHO VIOLATES A CONDITION OR PROVISION OF
24 TRUST THAT A COURT, THE SHERIFF, OR SHERIFF'S DESIGNEE ESTABLISHES IS
25 SUBJECT TO:

26 1. REMOVAL FROM THE WORK RELEASE PROGRAM; AND

27 2. CANCELLATION OF ANY EARNED DIMINUTION OF THE
28 INMATE'S TERM OF CONFINEMENT.

29 (II) A VIOLATION OF A TERM OF LEAVE UNDER THIS SECTION IS A
30 VIOLATION OF ARTICLE 27, § 139 OF THE CODE.

31 (C) HOME DETENTION PROGRAM.

32 (1) THE SHERIFF SHALL:

33 (I) ESTABLISH AND ADMINISTER A HOME DETENTION PROGRAM;
34 AND

1 (II) ADOPT REGULATIONS FOR THE HOME DETENTION PROGRAM.

2 (2) AT THE TIME OF SENTENCING OR AT ANY TIME DURING AN
3 INDIVIDUAL'S CONFINEMENT, THE SENTENCING JUDGE MAY REQUIRE AN
4 INDIVIDUAL WHO IS CONVICTED OF A CRIME AND SENTENCED TO IMPRISONMENT
5 UNDER THE CUSTODY OF THE SHERIFF TO PARTICIPATE IN THE HOME DETENTION
6 PROGRAM.

7 (3) SUBJECT TO PARAGRAPH (4) OF THIS SUBSECTION, AN INMATE IS
8 ELIGIBLE FOR THE HOME DETENTION PROGRAM IF:

9 (I) THE SENTENCING JUDGE RECOMMENDS THE INMATE FOR
10 SENTENCING TO THE HOME DETENTION PROGRAM; AND

11 (II) THE INMATE HAS NO OTHER CHARGES PENDING IN ANY
12 JURISDICTION.

13 (4) AN INMATE IS NOT ELIGIBLE FOR THE HOME DETENTION PROGRAM
14 IF THE INMATE:

15 (I) IS SERVING A SENTENCE FOR A CRIME OF VIOLENCE; OR

16 (II) HAS BEEN FOUND GUILTY OF THE CRIME OF:

17 1. CHILD ABUSE UNDER ARTICLE 27, § 35C OF THE CODE; OR

18 2. ESCAPE UNDER ARTICLE 27, § 139 OF THE CODE.

19 (5) WHILE PARTICIPATING IN THE HOME DETENTION PROGRAM, AN
20 INMATE IS RESPONSIBLE FOR:

21 (I) MEDICAL CARE AND RELATED EXPENSES; AND

22 (II) COSTS OF CLOTHES, FOOD, LODGING, RESTITUTION, TAXES,
23 AND TRANSPORTATION.

24 (6) THE SHERIFF MAY:

25 (I) COLLECT FROM EACH INMATE PARTICIPATING IN THE HOME
26 DETENTION PROGRAM A REASONABLE FEE FOR THE COST OF ELECTRONIC
27 SUPERVISION AND ADMINISTRATION OF THE PROGRAM; OR

28 (II) WAIVE OR REDUCE THE FEE.

29 (7) THE SHERIFF MAY LIMIT THE NUMBER OF INMATES IN THE HOME
30 DETENTION PROGRAM.

31 REVISOR'S NOTE: Subsection (a) of this section is new language added to
32 clarify that this section applies only in Carroll County.

33 Subsections (b) and (c) of this section are new language derived without

1 substantive change from former Art. 27, §§ 645BB and 645LL.

2 In subsection (b)(2) of this section, the reference to the "court" is
3 substituted for the former reference to a "Circuit Court or District Court"
4 for brevity. Also, the reference to a court "in Carroll County" is deleted as
5 unnecessary in light of subsection (a) of this section.

6 In subsections (b)(2)(ii) and (c)(3)(ii) of this section, the references to
7 charges pending in any "jurisdiction" are substituted for the former
8 references to those that are pending in any "city, county, or state" for
9 consistency within this subtitle. See, e.g., §§ 11-709(b)(3)(ii), 11-711(e)(2),
10 11-712(b)(4)(ii) and (d)(3)(ii), 11-714(d)(3)(ii), 11-715(d)(1)(ii),
11 11-723(b)(3)(ii), and 11-724(e)(2) of this subtitle. The Correctional Services
12 Article Review Committee notes, for consideration by the General
13 Assembly, that the references to charges pending in any "jurisdiction",
14 which include charges filed in federal court, may be broader than the more
15 ambiguous references to charges pending in any "city, county, or state".

16 In subsections (b)(2) and (c)(2) of this section, the reference to an
17 individual's "confinement" is substituted for the former reference to
18 "incarceration" for consistency throughout this article. Similarly, in
19 subsection (b)(8)(i)2 of this section, the reference to diminution of an
20 inmate's "term of confinement" is substituted for the former reference to
21 diminution of an inmate's "sentence". See General Revisor's Note to this
22 article.

23 In subsection (b)(4) of this section, the phrase "may leave" is substituted
24 for the former phrase "may be granted the privilege of leaving" for brevity.

25 In subsection (b)(5) and (8)(i) of this section, the references to a "court" are
26 substituted for the former reference to a "judge" for consistency with
27 subsection (b)(2) and (6) of this section. See General Revisor's Note to this
28 subtitle.

29 The Correctional Services Article Review Committee notes, for
30 consideration by the General Assembly, that subsection (b)(7) of this
31 section sets forth rules governing the disposition of an inmate's earnings.
32 The Committee further notes that there are significant inconsistencies
33 throughout this article in statutory provisions governing the disposition of
34 an inmate's earnings in different contexts. See, e.g., §§ 3-804, 3-807(e)(1),
35 9-504(d), 9-512(b), 11-319(b), 11-407(b), 11-604, 11-703(d)(4), 11-704(d),
36 11-705(i), 11-706(b)(5), 11-707(b), 11-711(g), 11-712(c)(5), 11-714(c)(4),
37 11-715(e), 11-716(g), 11-717(e), 11-718(e), 11-719(b), 11-722(b),
38 11-724(g), and 11-725(b) of this article and accompanying Revisor's Notes.
39 The General Assembly may wish to examine all of the relevant provisions
40 and determine whether they should be changed to reflect a more consistent
41 policy in this area.

42 In subsection (b)(8)(ii) of this section, the reference to a violation of a term

1 of leave being "[a] violation of" Art. 27, § 139 is substituted for the former
2 reference to a violation of a term of leave being "considered a violation of"
3 Art. 27, § 139 for accuracy.

4 The Correctional Services Article Review Committee notes, for
5 consideration by the General Assembly, that subsection (b)(8)(ii) of this
6 section is one of many provisions in this article that relates to inmates who
7 escape while legitimately outside the confines of a correctional facility
8 (e.g., while on work release, home detention, pretrial release, weekend
9 leave, compassionate leave, family leave, etc.). For a discussion of the
10 Committee's perspective on these provisions, see § 3-305(c) of this article
11 and accompanying Revisor's Note.

12 In subsection (c)(2) of this section, the former reference to an individual
13 who is sentenced to imprisonment "by any court in Carroll County" is
14 deleted as unnecessary in light of subsection (a) of this section.

15 Also in subsection (c)(2) of this section, the former reference to a home
16 detention program "established under this section" is deleted as implied in
17 the reference to the "home detention program".

18 The Correctional Services Article Review Committee notes, for
19 consideration by the General Assembly, that subsection (c)(2) of this
20 section authorizes a "sentencing judge" to require that an individual
21 participate in home detention. Subsection (c)(2) is silent as to what
22 happens when the sentencing judge is unable to act on the matter. The
23 General Assembly may wish to amend subsection (c)(2) to state expressly
24 that, when a sentencing judge is unable to act, the authority to require
25 that an individual participate in home detention extends to other judges of
26 the committing court. See, e.g., §§ 11-704(c)(1)(i), 11-706(b)(2),
27 11-712(c)(2)(ii), and 11-717(d)(1) and (2) and (f)(3) of this subtitle.
28 Alternatively, the General Assembly may wish to amend subsection (c)(2)
29 to reflect the language of Maryland Rule 4-347, which establishes
30 procedures for hearings on alleged violations of probation. Maryland Rule
31 4-347 requires "[t]he court" to hold a hearing to determine whether a
32 violation has occurred. The rule also provides that "[w]henever practicable,
33 the hearing shall be held before the sentencing judge". See also §§
34 11-709(b)(2)(i) and (3)(i), 11-712(d)(2) and (3)(i), 11-714(b)(1) and (3)(i)
35 and (d)(2) and (3)(i), 11-715(d)(1) and (g)(1)(i), and 11-723(b)(2) and (3)(i)
36 of this subtitle and accompanying Revisor's Notes. If the General Assembly
37 chooses to amend subsection (c)(2), a corresponding change should be made
38 to subsection (c)(3)(i) of this section, which refers to the recommendation of
39 the "sentencing judge".

40 In subsection (c)(3) of this section, the phrase "[s]ubject to paragraph (4) of
41 this subsection" is added to clarify that paragraph (4) imposes additional
42 limitations to the eligibility criteria for the program. See also §§
43 11-709(b)(3), 11-714(d)(3), and 11-723(b)(3) of this subtitle.

1 In subsection (c)(5)(ii) of this section, the former reference to "housing" is
2 deleted as unnecessary in light of the reference to the synonymous term
3 "lodging". The term "lodging" is also used in numerous other provisions of
4 this subtitle. See, e.g., §§ 11-703(d)(4)(ii)1, 11-704(d)(2)(i),
5 11-706(b)(5)(ii)2 and (d)(1)(i), and 11-707(b)(2).

6 In subsection (c)(6) of this section, the former reference to a fee "imposed
7 under this paragraph" is deleted as implied in the reference to "fee".

8 In subsection (c)(7) of this section, the reference to inmates "in" the home
9 detention program is substituted for the former reference to individuals
10 "who may participate" in the program for brevity.

11 Also in subsection (c)(7) of this section, the former reference to the Sheriff's
12 authority to limit the "maximum" number of individuals in the program is
13 deleted as implied in the reference to the Sheriff's authority to limit the
14 "number" of inmates in the program.

15 Defined terms: "Court" § 11-701

16 "Crime of violence" § 11-701

17 "Inmate" § 1-101

18 11-709. CECIL COUNTY.

19 (A) SCOPE OF SECTION.

20 THIS SECTION APPLIES ONLY IN CECIL COUNTY.

21 (B) HOME DETENTION PROGRAM.

22 (1) THE SHERIFF SHALL:

23 (I) ESTABLISH AND ADMINISTER A HOME DETENTION PROGRAM;

24 AND

25 (II) ADOPT REGULATIONS TO IMPLEMENT THE PROGRAM.

26 (2) (I) AT THE TIME OF SENTENCING OR AT ANY TIME DURING AN
27 INDIVIDUAL'S CONFINEMENT, THE SENTENCING JUDGE MAY PLACE THE
28 INDIVIDUAL IN THE HOME DETENTION PROGRAM.

29 (II) THE SHERIFF MAY PLACE AN INMATE IN THE HOME
30 DETENTION PROGRAM AT ANY TIME AFTER THE INMATE HAS SERVED 25% OF THE
31 INMATE'S SENTENCE.

32 (3) SUBJECT TO PARAGRAPH (4) OF THIS SUBSECTION, AN INMATE IS
33 ELIGIBLE FOR THE HOME DETENTION PROGRAM IF THE INMATE:

34 (I) IS PLACED IN THE PROGRAM BY THE SENTENCING JUDGE OR
35 THE SHERIFF; AND

- 1 (II) HAS NO OTHER CHARGES PENDING IN ANY JURISDICTION.
- 2 (4) AN INMATE IS NOT ELIGIBLE FOR THE HOME DETENTION PROGRAM
3 IF THE INMATE:
- 4 (I) IS SERVING A SENTENCE FOR A CRIME OF VIOLENCE; OR
- 5 (II) HAS BEEN FOUND GUILTY OF THE CRIME OF:
- 6 1. CHILD ABUSE UNDER ARTICLE 27, § 35C OF THE CODE; OR
- 7 2. ESCAPE UNDER ARTICLE 27, § 139 OF THE CODE.
- 8 (5) THE SHERIFF SHALL:
- 9 (I) DETERMINE THE AMOUNT OF A REASONABLE FEE FOR THE
10 COST OF ELECTRONIC SUPERVISION, INCLUDING THE ADMINISTRATIVE COSTS
11 ASSOCIATED WITH THE SUPERVISION; AND
- 12 (II) COLLECT THE FEE FROM EACH INMATE IN THE PROGRAM.

13 REVISOR'S NOTE: Subsection (a) of this section is new language added to
14 clarify that this section applies only in Cecil County.

15 Subsection (b) of this section is new language derived without substantive
16 change from former Art. 27, § 645KK.

17 In subsection (b)(1)(ii) of this section, the former reference to "rules" and
18 regulations is deleted for consistency throughout this article. See General
19 Revisor's Note to this article.

20 In subsection (b)(2) of this section, the former references to a home
21 detention program "established under this section" are deleted as implied
22 in the reference to "home detention program".

23 The Correctional Services Article Review Committee notes, for
24 consideration by the General Assembly, that subsection (b)(2)(i) of this
25 section authorizes a "sentencing judge" to place an individual in home
26 detention. Subsection (b)(2)(i) is silent as to what happens when the
27 sentencing judge is unable to act on the matter. The General Assembly
28 may wish to amend subsection (b)(2)(i) to state expressly that, when the
29 sentencing judge is unable to act, the authority to place an individual in
30 home detention extends to other judges of the committing court. See, e.g.,
31 §§ 11-704(c)(1)(i), 11-706(b)(2), and 11-717(d)(1) and (2) and (f)(3) of this
32 subtitle. Alternatively, the General Assembly may wish to amend
33 subsection (b)(2)(i) to reflect the language of Maryland Rule 4-347, which
34 establishes procedures for hearings on alleged violations of probation.
35 Maryland Rule 4-347 requires "[t]he court" to hold a hearing to determine
36 whether a violation has occurred. The rule also provides that "[w]henever
37 practicable, the hearing shall be held before the sentencing judge". See also

1 §§ 11-708(c)(2) and (3)(i), 11-712(d)(2) and (3)(i), 11-714(b)(1) and (3)(i)
2 and (d)(2) and (3)(i), 11-715(d)(1) and (g)(1)(i), and 11-723(b)(2) and (3)(i)
3 of this subtitle and accompanying Revisor's Notes. If the General Assembly
4 chooses to amend subsection (b)(2)(i), a corresponding change should be
5 made to subsection (b)(3)(i) of this section, which refers to the
6 recommendation of the "sentencing judge".

7 In subsection (b)(2)(i) of this section, the reference to an individual's
8 "confinement" is substituted for the former reference to an individual's
9 "incarceration" for consistency throughout this article. See General
10 Revisor's Note to this article.

11 In subsection (b)(3) of this section, the phrase "[s]ubject to paragraph (4) of
12 this subsection" is substituted for the former phrase "[e]xcept as provided
13 in subsection (c) of this section" because the provision in paragraph (4) is
14 not an exception to the provision in paragraph (3) but rather imposes
15 additional limitations to the eligibility criteria for the program. See also §§
16 11-708(c)(3), 11-714(d)(3), and 11-723(b)(3) of this subtitle.

17 In subsection (b)(3)(i) of this section, the former reference to a home
18 detention program "under subsection (d) of this section" is deleted as
19 implied in the reference to a "home detention program".

20 In subsection (b)(3)(ii) of this section, the reference to charges pending in
21 any "jurisdiction" is substituted for the former reference to those that are
22 pending in any "city, county, or state" for consistency within this subtitle.
23 See, e.g., §§ 11-708(b)(2)(ii), 11-711(e)(2), 11-712(b)(4)(ii) and (d)(3)(ii),
24 11-714(d)(3)(ii), 11-715(d)(1)(ii), 11-723(b)(3)(ii), and 11-724(e)(2) of this
25 subtitle. The Correctional Services Article Review Committee notes, for
26 consideration by the General Assembly, that the reference to charges
27 pending in any "jurisdiction", which includes charges filed in federal court,
28 may be broader than the more ambiguous reference to charges pending in
29 any "city, county, or state".

30 In subsection (b)(5)(i) of this section, the reference to the administrative
31 costs associated with electronic supervision being "includ[ed]" in the cost of
32 electronic supervision is substituted for the former reference to the cost of
33 electronic supervision "and" administrative costs associated with the
34 supervision to clarify that these administrative costs are simply a part of
35 the cost of electronic supervision.

36 Defined terms: "Crime of violence" § 11-701

37 "Inmate" § 1-101

38 11-710. RESERVED.

39 11-711. DORCHESTER COUNTY.

40 (A) "WARDEN" DEFINED.

1 IN THIS SECTION, "WARDEN" MEANS THE WARDEN OF THE DORCHESTER
2 COUNTY DEPARTMENT OF CORRECTIONS.

3 (B) SCOPE OF SECTION.

4 THIS SECTION APPLIES ONLY IN DORCHESTER COUNTY.

5 (C) AUTHORIZED PROGRAMS.

6 THE COUNTY COMMISSIONERS MAY ESTABLISH UNDER THE COUNTY
7 DEPARTMENT OF CORRECTIONS PROGRAMS FOR:

8 (1) COMMUNITY SERVICE;

9 (2) HOME DETENTION;

10 (3) PRETRIAL RELEASE; AND

11 (4) WORK RELEASE.

12 (D) REGULATIONS.

13 THE COUNTY COMMISSIONERS SHALL ADOPT REGULATIONS NECESSARY TO
14 IMPLEMENT EACH PROGRAM ESTABLISHED UNDER THIS SECTION.

15 (E) ELIGIBILITY FOR PROGRAM.

16 AT THE TIME OF SENTENCING OR AT ANY TIME DURING AN INDIVIDUAL'S
17 CONFINEMENT, THE COURT MAY ALLOW THE INDIVIDUAL TO PARTICIPATE IN A
18 PROGRAM ESTABLISHED UNDER THIS SECTION IF THE INDIVIDUAL:

19 (1) IS SENTENCED TO THE CUSTODY OF THE WARDEN; AND

20 (2) HAS NO OTHER CHARGES PENDING IN ANY JURISDICTION.

21 (F) PRIVILEGES OF PARTICIPATING INMATE.

22 AN INMATE DESIGNATED TO PARTICIPATE IN A PROGRAM UNDER THIS SECTION
23 MAY LEAVE THE DETENTION CENTER TO:

24 (1) CONTINUE REGULAR EMPLOYMENT; OR

25 (2) SEEK NEW EMPLOYMENT.

26 (G) COLLECTION AND DISTRIBUTION OF WORK RELEASE INCOME.

27 (1) THE WARDEN OR WARDEN'S DESIGNEE SHALL COLLECT THE
28 EARNINGS OF AN INMATE DESIGNATED TO PARTICIPATE IN A WORK RELEASE
29 PROGRAM, LESS ANY PAYROLL DEDUCTION REQUIRED BY LAW.

1 (2) FROM THE EARNINGS OF THE INMATE, THE WARDEN SHALL DEDUCT
2 AND DISBURSE AN AMOUNT THAT:

3 (I) THE WARDEN DETERMINES TO BE A REASONABLE COST FOR
4 PROVIDING FOOD, LODGING, AND CLOTHING FOR THE INMATE;

5 (II) THE COUNTY ACTUALLY INCURS FOR NECESSARY FOOD,
6 TRAVEL, AND OTHER EXPENSES INCIDENTAL TO THE INMATE'S PARTICIPATION IN
7 THE PROGRAM;

8 (III) A COURT IMPOSES FOR A FINE, COST, OR RESTITUTION;

9 (IV) THE INMATE IS LEGALLY OBLIGATED TO PAY, OR REASONABLY
10 WANTS TO PAY, FOR SUPPORT OF A DEPENDENT; AND

11 (V) A COURT ORDERS THE INMATE TO REPAY TO THE STATE OR
12 THE COUNTY FOR THE SERVICES OF AN ATTORNEY APPOINTED BY THE COURT.

13 (3) THE WARDEN SHALL:

14 (I) CREDIT TO THE INMATE'S ACCOUNT ANY REMAINING BALANCE;
15 AND

16 (II) DISPOSE OF THE BALANCE IN THE INMATE'S ACCOUNT AS THE
17 INDIVIDUAL REASONABLY REQUESTS AND AS THE WARDEN APPROVES.

18 (H) VIOLATION OF PROGRAM CONDITIONS.

19 (1) IF AN INMATE VIOLATES A TRUST OR A CONDITION THAT A COURT
20 OR THE COUNTY DEPARTMENT OF CORRECTIONS ESTABLISHES FOR PARTICIPATION
21 IN A PROGRAM UNDER THIS SECTION, THE INMATE IS SUBJECT TO:

22 (I) REMOVAL FROM THE PROGRAM; AND

23 (II) CANCELLATION OF ANY EARNED DIMINUTION OF THE
24 INMATE'S TERM OF CONFINEMENT.

25 (2) THE FAILURE OF AN INMATE TO COMPLY WITH THE TERMS OF THE
26 INMATE'S AUTHORIZATION FOR LEAVE IS A VIOLATION OF ARTICLE 27, § 139 OF THE
27 CODE.

28 (3) IF A CONDITION THAT A COURT IMPOSES ON AN INMATE IS
29 INCONSISTENT WITH A REGULATION ADOPTED UNDER THIS SECTION, THE
30 CONDITION IMPOSED BY THE COURT CONTROLS AS TO THAT INMATE.

31 (4) IF AN INMATE VIOLATES A TRUST OR A CONDITION THAT THE COURT
32 OR THE COUNTY DEPARTMENT OF CORRECTIONS ESTABLISHES, THE COUNTY
33 DEPARTMENT OF CORRECTIONS SHALL NOTIFY THE SENTENCING COURT IN
34 WRITING OF THE VIOLATION.

35 (I) COMPASSIONATE LEAVE.

1 (1) THE WARDEN OR WARDEN'S DESIGNEE MAY AUTHORIZE
2 COMPASSIONATE LEAVE UNDER THIS SUBSECTION FOR ANY INMATE COMMITTED TO
3 THE COUNTY DEPARTMENT OF CORRECTIONS:

4 (I) TO VISIT A SERIOUSLY ILL MEMBER OF THE INMATE'S
5 IMMEDIATE FAMILY; OR

6 (II) TO ATTEND THE VIEWING OR FUNERAL OF A MEMBER OF THE
7 INMATE'S IMMEDIATE FAMILY.

8 (2) AN INMATE WHO VIOLATES THE TERMS OF AN AUTHORIZATION FOR
9 COMPASSIONATE LEAVE IS SUBJECT TO THE SANCTIONS SPECIFIED IN SUBSECTION
10 (H)(1) AND (2) OF THIS SECTION.

11 (3) AN INMATE WHO IS GRANTED COMPASSIONATE LEAVE UNDER THIS
12 SUBSECTION MAY BE REQUIRED TO REIMBURSE THE COUNTY DEPARTMENT OF
13 CORRECTIONS FOR ANY EXPENSES THAT THE DEPARTMENT INCURS IN GRANTING
14 THE LEAVE.

15 (4) THE WARDEN SHALL ADOPT REGULATIONS NECESSARY TO CARRY
16 OUT THIS SUBSECTION.

17 REVISOR'S NOTE: Subsection (a) of this section is new language added to avoid
18 repetition of the full title of the "warden of the Dorchester County
19 Department of Corrections".

20 Subsections (b) through (i) of this section are new language derived
21 without substantive change from former Art. 27, § 645MM.

22 In subsection (e) of this section, the reference to an individual's
23 "confinement" is substituted for the former reference to an individual's
24 "incarceration" for consistency throughout this article. See General
25 Revisor's Note to this article.

26 Also in subsection (e) of this section, the phrase "may allow" is substituted
27 for the former phrase "may ... prescribe" for stylistic consistency within
28 this article.

29 In subsection (f) of this section, the phrase "may leave" is substituted for
30 the former phrase "may be granted the privilege of leaving" for brevity.

31 In subsection (f)(1) of this section, the former reference to an "individual's"
32 regular employment is deleted as implied in the reference to "regular
33 employment".

34 In subsection (g)(1) of this section, the former reference to "surrender[ing]"
35 earnings is deleted as included in the reference to "collect[ing]" earnings.

36 In subsection (g)(2)(iii) of this section, the reference to a fine, cost, "or"
37 restitution is substituted for the former reference to fines, costs, "and"

1 restitutions to distinguish each of these different forms of judicially
2 imposed payments and to avoid any implication under former Art. 27, §
3 645MM(e)(2)(iii) that a deduction from the income of an inmate could only
4 be made if the inmate were legally obligated to pay all three types of
5 payments in a particular case.

6 The Correctional Services Article Review Committee notes, for
7 consideration by the General Assembly, that subsection (g)(2)(v) of this
8 section is silent as to whether, from the earnings of an inmate in the
9 program, the Public Defender will be repaid for services provided to the
10 inmate. Compare §§ 11-703(d)(4)(ii)6 and 11-705(i)(2)(v) of this subtitle.
11 The General Assembly may wish to amend subsection (g)(2)(v) to require
12 that the warden deduct and disburse, from the earnings of an inmate, any
13 amount that the inmate was ordered to pay under Art. 27A, § 7 for services
14 rendered by the Public Defender.

15 The Correctional Services Article Review Committee also notes, for
16 consideration by the General Assembly, that subsection (g) of this section,
17 which sets forth rules governing the disposition of an inmate's earnings, is
18 one of many provisions in this article that relates to this subject. However,
19 there are significant inconsistencies throughout this article in the
20 provisions governing the disposition of an inmate's earnings in different
21 contexts. See, e.g., §§ 3-804, 3-807(e)(1), 9-504(d), 9-512(b), 11-319(b),
22 11-407(b), 11-604, 11-703(d)(4), 11-704(d), 11-705(i), 11-706(b)(5),
23 11-707(b), 11-708(b)(7), 11-712(c)(5), 11-714(c)(4), 11-715(e), 11-716(g),
24 11-717(e), 11-718(e), 11-719(b), 11-722(b), 11-724(g), and 11-725(b) of
25 this article and accompanying Revisor's Notes. The General Assembly may
26 wish to examine all of the relevant provisions and determine whether they
27 should be changed to reflect a more consistent policy in this area.

28 In subsection (h)(1) of this section, the reference to the "establish[ing]" of a
29 trust or condition is substituted for the former reference to the
30 "prescrib[ing]" of a trust or condition for stylistic consistency within this
31 article.

32 In subsection (h)(1)(ii) of this section, the reference to an inmate's "term" of
33 confinement is substituted for the former reference to the inmate's "period"
34 of confinement for consistency throughout this article. See General
35 Revisor's Note to this article.

36 In subsection (h)(2) of this section, the former reference to a "prisoner's"
37 authorization for leave is deleted as implied in the reference to
38 "authorization for leave" and for consistency with subsection (i)(2) of this
39 section.

40 The Correctional Services Article Review Committee notes, for
41 consideration by the General Assembly, that subsection (h)(2) of this
42 section is one of many provisions in this article that relates to inmates who
43 escape while legitimately outside the confines of a correctional facility

1 (e.g., while on work release, home detention, pretrial release, weekend
2 release, compassionate leave, family leave, etc.). For a discussion of the
3 Committee's perspective on these provisions, see § 3-305(c) of this article
4 and accompanying Revisor's Note.

5 In subsection (h)(4) of this section, the reference to the duty of the
6 Department to notify the sentencing court in writing "of the violation" is
7 added to state expressly that which was only implied in the former law.

8 Also in subsection (h)(4) of this section, the clause "[i]f an inmate violates a
9 trust or a condition that the court or the County Department of Corrections
10 establishes" is substituted for the former clause "[i]f a trust or condition is
11 violated" to state expressly that which was only implied in the former law.

12 Defined terms: "Court" § 11-701

13 "Inmate" § 1-101

14 11-712. FREDERICK COUNTY.

15 (A) SCOPE OF SECTION.

16 THIS SECTION APPLIES ONLY IN FREDERICK COUNTY.

17 (B) PRETRIAL RELEASE PROGRAM.

18 (1) THE SHERIFF SHALL:

19 (I) ESTABLISH A PRETRIAL RELEASE PROGRAM THAT OFFERS
20 ALTERNATIVES TO PRETRIAL DETENTION; AND

21 (II) ADOPT REGULATIONS TO ADMINISTER THE PROGRAM.

22 (2) A COURT MAY ORDER AN INDIVIDUAL TO PARTICIPATE IN THE
23 PRETRIAL RELEASE PROGRAM, IF THE INDIVIDUAL:

24 (I) APPEARS BEFORE THE COURT AFTER BEING CHARGED AND
25 DETAINED ON BOND; AND

26 (II) MEETS THE ELIGIBILITY REQUIREMENTS OF PARAGRAPH (4) OF
27 THIS SUBSECTION.

28 (3) THE COURT MAY MAKE THE ORDER AT THE IMPOSITION OF BOND,
29 ON REVIEW OF BOND, OR ANY OTHER TIME DURING THE INDIVIDUAL'S PRETRIAL
30 DETENTION.

31 (4) AN INDIVIDUAL IS ELIGIBLE FOR THE PRETRIAL RELEASE PROGRAM
32 IF THE INDIVIDUAL:

33 (I) IS RECOMMENDED TO THE COURT FOR PLACEMENT IN THE
34 PROGRAM BY THE PROGRAM STAFF;

1 (II) HAS NO OTHER CHARGES PENDING IN ANY JURISDICTION; AND

2 (III) IS NOT IN DETENTION FOR:

3 1. A CRIME OF VIOLENCE; OR

4 2. THE CRIME OF ESCAPE UNDER ARTICLE 27, § 139 OF THE
5 CODE.

6 (C) WORK RELEASE PROGRAM AND REHABILITATION ACTIVITIES.

7 (1) THE SHERIFF'S DEPARTMENT MAY:

8 (I) ESTABLISH AND DIRECT A WORK RELEASE PROGRAM; AND

9 (II) ADOPT GUIDELINES FOR THE OPERATION OF THE PROGRAM.

10 (2) (I) AT THE TIME OF SENTENCING OR AT ANY TIME DURING AN
11 INDIVIDUAL'S CONFINEMENT, THE SENTENCING JUDGE MAY ORDER THAT AN
12 INDIVIDUAL PARTICIPATE IN THE WORK RELEASE PROGRAM, SUBJECT TO THE
13 GUIDELINES ADOPTED BY THE SHERIFF.

14 (II) IF THE SENTENCING JUDGE IS UNABLE TO ACT AT THE TIME OF
15 AN INMATE'S PETITION FOR WORK RELEASE, ANOTHER JUDGE OF THE COMMITTING
16 COURT MAY ORDER THAT THE INMATE PARTICIPATE IN THE WORK RELEASE
17 PROGRAM.

18 (3) IN ORDERING AN INMATE TO PARTICIPATE IN THE WORK RELEASE
19 PROGRAM, THE COURT MAY ALLOW THE INMATE TO LEAVE ACTUAL CONFINEMENT
20 TO:

21 (I) WORK AT GAINFUL, PRIVATE EMPLOYMENT;

22 (II) SEEK GAINFUL, PRIVATE EMPLOYMENT; OR

23 (III) PARTICIPATE IN AN EDUCATIONAL, REHABILITATIVE, OR
24 TRAINING PROGRAM IN THE COUNTY.

25 (4) UNLESS THE COMMITTING COURT DIRECTS OTHERWISE, AN INMATE
26 SHALL BE CONFINED IN THE DETENTION CENTER WHEN NOT PARTICIPATING IN THE
27 WORK RELEASE PROGRAM.

28 (5) (I) THE SHERIFF OR SHERIFF'S DESIGNEE SHALL COLLECT THE
29 EARNINGS OF AN INMATE IN THE WORK RELEASE PROGRAM, LESS PAYROLL
30 DEDUCTIONS REQUIRED BY LAW.

31 (II) FROM THE EARNINGS OF THE INMATE, THE SHERIFF SHALL
32 DEDUCT AND DISBURSE:

33 1. AN AMOUNT DETERMINED TO BE THE COST TO THE
34 COUNTY FOR FOOD, LODGING, AND CLOTHING FOR THE INMATE;

1 (I) THE SENTENCING JUDGE RECOMMENDED THAT THE INMATE
2 PARTICIPATE IN THE PROGRAM; AND

3 (II) THE INDIVIDUAL HAS NO OTHER CHARGES PENDING IN ANY
4 JURISDICTION.

5 (4) AN INMATE IS NOT ELIGIBLE FOR THE HOME DETENTION PROGRAM
6 IF THE INMATE:

7 (I) IS SERVING A SENTENCE FOR A CRIME OF VIOLENCE; OR

8 (II) HAS BEEN FOUND GUILTY OF THE CRIME OF:

9 1. CHILD ABUSE UNDER ARTICLE 27, § 35C OF THE CODE; OR

10 2. ESCAPE UNDER ARTICLE 27, § 139 OF THE CODE.

11 REVISOR'S NOTE: Subsection (a) of this section is new language added to
12 clarify that this section applies only in Frederick County.

13 Subsections (b), (c), and (d) of this section are new language derived
14 without substantive change from former Art. 27, §§ 638AC and 645FF.

15 In the introductory language of subsection (b)(2) and in subsection (b)(2)(i)
16 and (4)(i) of this section, the defined term "court" is substituted for the
17 former reference to a "judge" for clarity and consistency within this
18 subtitle. See General Revisor's Note to this subtitle.

19 In subsections (b)(4)(ii) and (d)(3)(ii) of this section, the references to
20 charges pending in any "jurisdiction" are substituted for the former
21 references to those that are pending in any "city, county, or state" for
22 consistency within this subtitle. See, e.g., §§ 11-708(b)(2)(ii),
23 11-709(b)(3)(ii), 11-711(e)(2), 11-714(d)(3)(ii), 11-715(d)(1)(ii),
24 11-723(b)(3)(ii), and 11-724(e)(2) of this subtitle. The Correctional Services
25 Article Review Committee notes, for consideration by the General
26 Assembly, that the references to charges pending in any "jurisdiction",
27 which include charges filed in federal court, may be broader than the more
28 ambiguous references to charges pending in any "city, county, or state".

29 In subsection (c)(1)(ii) of this section, the former reference to the Sheriff's
30 authority to adopt guidelines "under which ... its participants" must
31 operate is deleted as implied in the reference to the Sheriff's authority to
32 adopt guidelines "for the operation of the program".

33 Also in subsection (c)(1)(ii) of this section, the requirement to "adopt"
34 guidelines is added for consistency with the requirement to "adopt"
35 regulations under subsection (b)(1)(ii) of this section and for clarity.

36 In subsection (c)(2)(i) of this section, the former reference to guidelines
37 adopted by the Sheriff "under this section" is deleted as implied in the

- 1 reference to "guidelines adopted by the Sheriff".
- 2 Also in subsection (c)(2)(i) of this section, the reference to "an individual's
3 confinement" is substituted for the former reference to "the incarceration
4 period" for consistency throughout this article. See General Revisor's Note
5 to this article.
- 6 Also in subsection (c)(2)(i) of this section, the reference to a judge's
7 authority to order that an individual "participate" in the work release
8 program is substituted for the former reference to a judge's authority to
9 order that an individual's "criminal confinement in the county detention
10 center be served" in the work release program for consistency throughout
11 this article.
- 12 In subsection (c)(2)(i) and (ii) of this section, the former references to a
13 "sitting" judge are deleted as implied in the references to a "judge".
- 14 In subsection (c)(2)(ii) of this section, the reference to the "sentencing"
15 judge is substituted for the former reference to the "judge who first ordered
16 the criminal confinement" for consistency with subsection (c)(2)(i) of this
17 section.
- 18 In subsection (c)(3) of this section, the phrase "allow[ing] the inmate to
19 leave actual confinement to" is substituted for the former phrase
20 "grant[ing] the privilege of leaving actual confinement for any of the
21 following purposes" for brevity.
- 22 In subsection (c)(3)(ii) of this section, the word "or" is substituted for the
23 former word "and" to clarify that an inmate could be released from
24 confinement in a correctional facility for any of the three undertakings.
- 25 In subsection (c)(4) of this section, the former reference to an inmate who is
26 "not working" or otherwise participating in the program is deleted as
27 included in the reference to an inmate who is "not participating in the
28 work release program".
- 29 In subsection (c)(5) of this section, the former reference to "surrender[ing]"
30 earnings is deleted as included in the reference to "collect[ing]" earnings.
- 31 In subsection (c)(5)(ii)3 of this section, the reference to a fine, cost, "or"
32 restitution is substituted for the former reference to fines, costs, "and"
33 restitutions to distinguish each of these different forms of judicially
34 imposed payments and to avoid any implication under former Art. 27, §
35 645FF(d)(2)(iii) that a deduction from the income of an individual could
36 only be made if the individual were legally obligated to pay all three types
37 of payments in a particular case.
- 38 The Correctional Services Article Review Committee notes, for
39 consideration by the General Assembly, that subsection (c)(5)(ii)5 of this
40 section is silent as to whether, from the earnings of an inmate in the

1 program, the Public Defender will be repaid for services provided to the
2 inmate. Compare § 11-703(d)(4)(ii)6 of this subtitle. The General Assembly
3 may wish to amend subsection (c)(5)(ii)5 to require that the warden deduct
4 and disburse, from the earnings of an inmate, any amount that the inmate
5 was ordered to pay under Art. 27A, § 7 for services rendered by the Public
6 Defender.

7 The Correctional Services Article Review Committee also notes, for
8 consideration by the General Assembly, that subsection (c)(5) of this
9 section, which sets forth rules governing the disposition of an inmate's
10 earnings, is one of many provisions in this article that relates to this
11 subject. However, there are significant inconsistencies throughout this
12 article in the provisions governing the disposition of an inmate's earnings
13 in different contexts. See, e.g., §§ 3-804, 3-807(e)(1), 9-504(d), 9-512(b),
14 11-319(b), 11-407(b), 11-604, 11-703(d)(4), 11-704(d), 11-705(i),
15 11-706(b)(5), 11-707(b), 11-708(b)(7), 11-711(g), 11-714(c)(4), 11-715(e),
16 11-716(g), 11-717(e), 11-718(e), 11-719(b), 11-722(b), 11-724(g), and
17 11-725(b) of this article and accompanying Revisor's Notes. The General
18 Assembly may wish to examine all of the relevant provisions and
19 determine whether they should be changed to reflect a more consistent
20 policy in this area.

21 In subsection (c)(6)(i)2 of this section, the reference to the diminution of an
22 inmate's "term of confinement" is substituted for the former reference to
23 the inmate's "sentence" for consistency throughout this article. See
24 General Revisor's Note to this article. Correspondingly, in subsection (d)(2)
25 of this section, the reference to an individual's "confinement" is substituted
26 for the former reference to an individual's "incarceration".

27 The Correctional Services Article Review Committee notes, for
28 consideration by the General Assembly, that subsection (c)(6)(ii) of this
29 section is one of many provisions in this article that relates to inmates who
30 escape while legitimately outside the confines of a correctional facility
31 (e.g., while on work release, home detention, pretrial release, weekend
32 leave, compassionate leave, family leave, etc.). For a discussion of the
33 Committee's perspective on these provisions, see § 3-305(c) of this article
34 and accompanying Revisor's Note.

35 Also in subsection (d)(2) of this section, the former phrase "[w]hen an
36 individual is convicted and sentenced to imprisonment" is deleted as
37 implied in the revision of subsection (d)(2).

38 Also in subsection (d)(2) of this section, the former reference to "any court
39 in Frederick County" is deleted as unnecessary in light of subsection (a) of
40 this section.

41 The Correctional Services Article Review Committee notes, for
42 consideration by the General Assembly, that subsection (d)(2) of this
43 section authorizes a "sentencing judge" to require that an individual

1 participate in the home detention program. Subsection (d)(2) is silent as to
 2 what happens when the sentencing judge is unable to act on the matter.
 3 The General Assembly may wish to amend subsection (d)(2) to state
 4 expressly that, when the sentencing judge is unable to act, the authority to
 5 place an individual in home detention extends to other judges of the
 6 committing court. See, e.g., §§ 11-704(c)(1)(i), 11-706(b)(2),
 7 11-712(c)(2)(ii), and 11-717(d)(1) and (2) and (f)(3) of this subtitle.
 8 Alternatively, the General Assembly may wish to amend subsection (d)(2)
 9 to reflect the language of Maryland Rule 4-347, which establishes
 10 procedures for hearings on alleged violations of probation. Maryland Rule
 11 4-347 requires "[t]he court" to hold a hearing to determine whether a
 12 violation has occurred. The rule also provides that "[w]henever practicable,
 13 the hearing shall be held before the sentencing judge". See also §§
 14 11-708(c)(2) and (3)(i), 11-709(b)(2)(i) and (3)(i), 11-714(b)(1) and (3)(i) and
 15 (d)(2) and (3)(i), 11-715(d)(1) and (g)(1)(i), and 11-723(b)(2) and (3)(i) of
 16 this subtitle and accompanying Revisor's Notes. If the General Assembly
 17 amends subsection (d)(2), a corresponding change should be made to
 18 subsection (d)(3)(i) of this section, which refers to the recommendation of
 19 the "sentencing judge".

20 Also in subsection (d)(2) of this section, the former reference to the home
 21 detention program "established under this section" is deleted as implied in
 22 the reference to "home detention program".

23 Defined terms: "Court" § 11-701

24 "Crime of violence" § 11-701

25 "Inmate" § 1-101

26 11-713. RESERVED.

27 11-714. HARFORD COUNTY.

28 (A) SCOPE OF SECTION.

29 THIS SECTION APPLIES ONLY IN HARFORD COUNTY.

30 (B) WORK RELEASE, REHABILITATION, AND EDUCATION OF PRISONERS.

31 (1) AT THE TIME OF SENTENCING OR AT ANY TIME DURING AN
 32 INDIVIDUAL'S CONFINEMENT, THE SENTENCING JUDGE MAY ALLOW AN INDIVIDUAL
 33 WHO IS CONVICTED OF A CRIME AND SENTENCED TO IMPRISONMENT IN A LOCAL
 34 CORRECTIONAL FACILITY TO PARTICIPATE IN ONE OF THE ACTIVITIES SPECIFIED IN
 35 PARAGRAPH (2) OF THIS SUBSECTION DURING THE INDIVIDUAL'S CONFINEMENT.

36 (2) AN INMATE WHO IS ALLOWED TO DO SO UNDER PARAGRAPH (1) OF
 37 THIS SUBSECTION MAY:

38 (I) CONTINUE REGULAR EMPLOYMENT;

39 (II) OBTAIN NEW EMPLOYMENT;

- 1 (III) PARTICIPATE IN A TRAINING OR REHABILITATION PROGRAM;
2 OR
- 3 (IV) ATTEND AN EDUCATIONAL INSTITUTION IN THE COUNTY.
- 4 (3) (I) THE SENTENCING JUDGE MAY REQUIRE THAT THE INMATE
5 COMPLY WITH THE TERMS AND CONDITIONS THAT THE JUDGE CONSIDERS
6 APPROPRIATE.
- 7 (II) THE INMATE'S PARTICIPATION IN AN AUTHORIZED ACTIVITY
8 MAY NOT AFFECT THE LENGTH OF THE INMATE'S SENTENCE.
- 9 (C) WORK RELEASE PROGRAM.
- 10 (1) THE COUNTY GOVERNMENT SHALL COOPERATE IN AND PROVIDE
11 FISCAL SUPPORT FOR A WORK RELEASE PROGRAM AS PROVIDED UNDER
12 SUBSECTION (B) OF THIS SECTION.
- 13 (2) SUBJECT TO SUBSECTION (B) OF THIS SECTION, AN INMATE OF A
14 LOCAL CORRECTIONAL FACILITY WHO PARTICIPATES IN THE WORK RELEASE
15 PROGRAM MAY LEAVE ACTUAL CONFINEMENT:
- 16 (I) AT NECESSARY AND REASONABLE TIMES, TO WORK AT
17 GAINFUL, PRIVATE EMPLOYMENT; OR
- 18 (II) UNDER APPROPRIATE CONDITIONS, TO SEEK GAINFUL,
19 PRIVATE EMPLOYMENT.
- 20 (3) UNLESS THE COMMITTING COURT DIRECTS OTHERWISE, AN INMATE
21 SHALL BE CONFINED IN THE LOCAL CORRECTIONAL FACILITY WHEN NOT
22 PARTICIPATING IN THE WORK RELEASE PROGRAM.
- 23 (4) AN INMATE WHO PARTICIPATES IN THE WORK RELEASE PROGRAM
24 SHALL SURRENDER TO THE SHERIFF:
- 25 (I) A REASONABLE FEE, AS DETERMINED BY THE SHERIFF, FOR
26 THE COST OF PROVIDING FOOD, LODGING, AND CLOTHING FOR THE INMATE;
- 27 (II) THE ACTUAL COST OF NECESSARY FOOD, TRAVEL, AND OTHER
28 EXPENSES INCIDENTAL TO THE PARTICIPATION BY THE INMATE IN THE PROGRAM;
29 AND
- 30 (III) COURT-ORDERED PAYMENTS FOR RESTITUTION.
- 31 (5) IF AN INMATE IN THE WORK RELEASE PROGRAM VIOLATES A TRUST
32 OR A CONDITION THAT THE COURT ESTABLISHES FOR CONDUCT OR EMPLOYMENT,
33 THE INMATE IS SUBJECT TO:
- 34 (I) REMOVAL FROM THE PROGRAM; AND

1 (II) CANCELLATION OF ANY EARNED DIMINUTION OF THE
2 INMATE'S TERM OF CONFINEMENT.

3 (6) THE FAILURE OF AN INMATE TO COMPLY WITH THE TERMS OF THE
4 INMATE'S AUTHORIZATION FOR LEAVE IS A VIOLATION OF ARTICLE 27, § 139 OF THE
5 CODE.

6 (D) HOME DETENTION PROGRAM.

7 (1) THE SHERIFF SHALL:

8 (I) ESTABLISH AND ADMINISTER A HOME DETENTION PROGRAM;
9 AND

10 (II) ADOPT REGULATIONS FOR THE PROGRAM.

11 (2) AT THE TIME OF SENTENCING OR AT ANY TIME DURING AN
12 INDIVIDUAL'S CONFINEMENT, THE SENTENCING JUDGE MAY ALLOW AN INDIVIDUAL
13 WHO IS CONVICTED OF A CRIME AND SENTENCED TO IMPRISONMENT IN A LOCAL
14 CORRECTIONAL FACILITY TO PARTICIPATE IN THE HOME DETENTION PROGRAM.

15 (3) SUBJECT TO PARAGRAPH (4) OF THIS SUBSECTION, AN INMATE IS
16 ELIGIBLE FOR THE HOME DETENTION PROGRAM IF:

17 (I) THE SENTENCING JUDGE RECOMMENDS THAT THE INMATE
18 PARTICIPATE IN THE PROGRAM; AND

19 (II) THE INMATE HAS NO OTHER CHARGES PENDING IN ANY
20 JURISDICTION.

21 (4) AN INMATE IS NOT ELIGIBLE FOR THE HOME DETENTION PROGRAM
22 IF THE INMATE:

23 (I) IS SERVING A SENTENCE FOR A CRIME OF VIOLENCE; OR

24 (II) HAS BEEN FOUND GUILTY OF THE CRIME OF:

25 1. CHILD ABUSE UNDER ARTICLE 27, § 35C OF THE CODE; OR

26 2. ESCAPE UNDER ARTICLE 27, § 139 OF THE CODE.

27 REVISOR'S NOTE: Subsection (a) of this section is new language added to
28 clarify that this section applies only in Harford County.

29 Subsections (b), (c), and (d) of this section are new language derived
30 without substantive change from former Art. 27, § 645U.

31 In subsections (b)(1) and (d)(2) of this section, references to an "individual"
32 are substituted for the former references to a "person" because only a
33 human being, and not the other entities included in the defined term
34 "person", can be sentenced to imprisonment. See § 1-101 of this article for

1 the definition of "person".

2 In subsection (b)(1) of this section, the reference to a judge "allow[ing]" an
3 individual to participate in an authorized activity is substituted for the
4 former reference to "prescrib[ing] that [an individual] may" participate in
5 an authorized activity for consistency throughout this article with regard
6 to discretionary language.

7 Also in subsection (b)(1) of this section, the references to "confinement" are
8 substituted for the former references to "term of detention" and "term of
9 his sentence", respectively, for consistency throughout this subtitle.

10 The Correctional Services Article Review Committee notes, for
11 consideration by the General Assembly, that subsections (b)(1) and (d)(2) of
12 this section authorize a "sentencing judge" to allow an individual to
13 participate in certain activities. Subsections (b)(1) and (d)(2) are silent as
14 to what happens when the sentencing judge is unable to act on the matter.
15 The General Assembly may wish to amend subsections (b)(1) and (d)(2) to
16 state expressly that, when the sentencing judge is unable to act, the
17 authority to allow an individual to participate in the specified activities
18 extends to other judges of the committing court. See, e.g., subsection (c)(3)
19 of this section and §§ 11-704(c)(1)(i), 11-706(b)(2), 11-712(c)(2)(ii), and
20 11-717(d)(1) and (2) and (f)(3) of this subtitle. Alternatively, the General
21 Assembly may wish to amend subsections (b)(1) and (d)(2) to reflect the
22 language of Maryland Rule 4-347, which establishes procedures for
23 hearings on alleged violations of probation. Maryland Rule 4-347 requires
24 "[t]he court" to hold a hearing to determine whether a violation has
25 occurred. The rule also provides that "[w]henever practicable, the hearing
26 shall be held before the sentencing judge". See also §§ 11-708(c)(2),
27 11-709(b)(2)(i) and (3)(i), 11-712(d)(2) and (3)(i), 11-715(d)(1) and (g)(1)(i),
28 and 11-723(b)(2) and (3)(i) of this subtitle and accompanying Revisor's
29 Notes. If the General Assembly amends subsections (b)(1) and (d)(2),
30 corresponding changes should be made to subsection (b)(3)(i) of this
31 section, which gives the "sentencing judge" authority to require that an
32 inmate comply with the terms and conditions that the judge considers
33 appropriate, and subsection (d)(3)(i) of this section, which refers to the
34 recommendation of the "sentencing judge".

35 In subsection (b)(3)(ii) of this section, the phrase "may not affect" is
36 substituted for the former phrase "shall in no event lengthen or shorten
37 the term of" for brevity.

38 In subsection (c)(2) of this section, the reference to "an inmate of a local
39 correctional facility" is substituted for the former reference to "persons
40 sentenced to imprisonment in the jail" for consistency throughout this
41 article. See § 1-101 of this article, for the definitions of "inmate" and "local
42 correctional facility". In light of subsection (b)(1) of this section, which
43 refers to an individual who is "convicted of a crime and sentenced to
44 imprisonment", this substitution does not affect a substantive change.

1 Also in subsection (c)(2) of this section, the phrase "may leave" is
2 substituted for the former phrase "may be granted the privilege of leaving"
3 for brevity.

4 In subsection (c)(4) of this section, the former reference to a work release
5 program "authorized under this section" is deleted as implied in the
6 reference to "work release program".

7 The Correctional Services Article Review Committee notes, for
8 consideration by the General Assembly, that subsection (c)(4) of this
9 section sets forth rules governing the disposition of an inmate's earnings.
10 The Committee further notes that there are significant inconsistencies
11 throughout this article in statutory provisions governing the disposition of
12 an inmate's earnings in different contexts. See, e.g., §§ 3-804, 3-807(e)(1),
13 9-504(d), 9-512(b), 11-319(b), 11-407(b), 11-604, 11-703(d)(4), 11-704(d),
14 11-705(i), 11-706(b)(5), 11-707(b), 11-708(b)(7), 11-711(g), 11-712(c)(5),
15 11-715(e), 11-716(g), 11-717(e), 11-718(e), 11-719(b), 11-722(b),
16 11-724(g), and 11-725(b) of this article and accompanying Revisor's Notes.
17 The General Assembly may wish to examine all of the relevant provisions
18 and determine whether they should be changed to reflect a more consistent
19 policy in this area.

20 In subsection (c)(5) of this section, the reference to "establish[ing]" a trust
21 or condition is substituted for the former reference to "proscrib[ing]" a
22 trust or condition for stylistic consistency throughout this article.

23 In subsection (c)(5)(ii) of this section, the reference to the diminution "of
24 the inmate's term of confinement" is added for consistency throughout this
25 article. Similarly, in subsection (d)(2) of this section, the reference to
26 "confinement" is substituted for the former reference to "incarceration".
27 See General Revisor's Note to this article.

28 The Correctional Services Article Review Committee notes, for
29 consideration by the General Assembly, that subsection (c)(6) of this
30 section is one of many provisions in this article that relates to inmates who
31 escape while legitimately outside the confines of a correctional facility
32 (e.g., while on work release, home detention, pretrial release, weekend
33 leave, compassionate leave, family leave, etc.). For a discussion of the
34 Committee's perspective on these provisions, see § 3-305(c) of this article
35 and accompanying Revisor's Note.

36 In subsection (d)(1) of this section, the former reference to "rules" and
37 regulations is deleted for consistency throughout this article. See General
38 Revisor's Note to this article.

39 In subsection (d)(2) of this section, the reference to "allow[ing]" an
40 individual to participate in a home detention program is substituted for
41 the former reference to "prescrib[ing]" that an individual participate in the
42 program for consistency with paragraph (3)(i) of this subsection, which

1 refers to the "recommend[ation]" of the judge. This language indicates that
2 the former reference to "prescribe" does not mean "require".

3 Also in subsection (d)(2) of this section, the former phrase "by any court in
4 the County" is deleted as unnecessary in light of subsection (a) of this
5 section.

6 Also in subsection (d)(2) of this section, the former reference to a home
7 detention program "established under this section" is deleted as implied in
8 the reference to "home detention program".

9 In subsection (d)(3) of this section, the phrase "[s]ubject to paragraph (4) of
10 this subsection" is added to clarify that paragraph (4) imposes additional
11 limitations to the eligibility criteria for the program. See also §
12 11-708(c)(3) and 11-709(b)(3) of this subtitle.

13 In subsection (d)(3)(i) of this section, the reference to a judge's authority to
14 recommend that an individual "participate" in the home detention
15 program is substituted for the former reference to a judge's authority to
16 recommend that an individual "be sentenced to" the program for
17 consistency with § 11-712(c)(2)(i) of this subtitle.

18 In subsection (d)(3)(ii) of this section, the reference to charges pending in
19 any "jurisdiction" is substituted for the former reference to those that are
20 pending in any "city, county, or state" for consistency within this subtitle.
21 See, e.g., §§ 11-708(b)(2)(ii), 11-709(b)(3), 11-711(e)(2), 11-712(b)(4)(ii) and
22 (d)(3)(ii), 11-715(d)(1)(ii), 11-723(b)(3)(ii), and 11-724(e)(2) of this subtitle.
23 The Correctional Services Article Review Committee notes, for
24 consideration by the General Assembly, that the reference to charges
25 pending in any "jurisdiction", which includes charges filed in federal court,
26 may be broader than the more ambiguous reference to charges pending in
27 any "city, county, or state".

28 Defined terms: "Court" § 11-701

29 "Crime of violence" § 11-701

30 "Inmate" § 1-101

31 "Local correctional facility" § 1-101

32 11-715. HOWARD COUNTY.

33 (A) DEFINITIONS.

34 (1) IN THIS SECTION THE FOLLOWING TERMS HAVE THE MEANINGS
35 INDICATED.

36 (2) "DEPARTMENT" MEANS THE HOWARD COUNTY DEPARTMENT OF
37 CORRECTION.

38 (3) "DIRECTOR" MEANS THE DIRECTOR OF THE HOWARD COUNTY
39 DEPARTMENT OF CORRECTION.

1 (B) SCOPE OF SECTION.

2 THIS SECTION APPLIES ONLY IN HOWARD COUNTY.

3 (C) AUTHORITY TO ESTABLISH PROGRAM.

4 (1) THE DEPARTMENT MAY ESTABLISH A WORK RELEASE PROGRAM.

5 (2) THE WORK RELEASE PROGRAM MAY INCLUDE AN INMATE'S
6 PARTICIPATION IN A PROGRAM OF EMPLOYMENT, REHABILITATION, TRAINING,
7 EDUCATION, OR HOME DETENTION.

8 (3) THE DIRECTOR MAY ADOPT REGULATIONS RELATING TO THE
9 OPERATION OF THE WORK RELEASE PROGRAM.

10 (D) PARTICIPATION IN A WORK RELEASE PROGRAM AUTHORIZED.

11 (1) AT THE TIME OF SENTENCING OR AT ANY TIME DURING AN
12 INDIVIDUAL'S CONFINEMENT, THE SENTENCING JUDGE MAY ALLOW AN INDIVIDUAL
13 TO PARTICIPATE IN THE WORK RELEASE PROGRAM IF THE INDIVIDUAL:

14 (I) HAS BEEN SENTENCED TO THE CUSTODY OF THE
15 DEPARTMENT; AND

16 (II) HAS NO OTHER CHARGES PENDING IN ANY JURISDICTION.

17 (2) IF THE DEPARTMENT APPROVES, AN INMATE IN THE CUSTODY OF
18 THE HOWARD COUNTY DETENTION CENTER MAY LEAVE THE CENTER TO
19 PARTICIPATE IN A WORK RELEASE PROGRAM.

20 (3) AN INMATE WHO HAS BEEN DESIGNATED TO PARTICIPATE IN A
21 WORK RELEASE PROGRAM MAY:

22 (I) CONTINUE REGULAR EMPLOYMENT; OR

23 (II) OBTAIN NEW EMPLOYMENT.

24 (4) AN INMATE WHO HAS BEEN SENTENCED TO THE CUSTODY OF THE
25 DEPARTMENT SHALL BE CONFINED TO THE HOWARD COUNTY DETENTION CENTER:

26 (I) EXCEPT AS PROVIDED IN THIS SECTION; OR

27 (II) UNLESS A COURT ORDERS OTHERWISE.

28 (E) INMATE PAYMENTS.

29 AN INMATE WHO IS EMPLOYED WHILE IN A WORK RELEASE PROGRAM UNDER
30 THIS SECTION SHALL:

31 (1) REIMBURSE THE DEPARTMENT BY PAYING A FEE BASED ON:

1 (I) THE DEPARTMENT'S ESTIMATED COST OF PROVIDING FOOD
2 AND LODGING TO THE INMATE; AND

3 (II) THE ESTIMATED EXPENSES INCURRED BY THE DEPARTMENT
4 BECAUSE OF THE INMATE'S PARTICIPATION IN THE WORK RELEASE PROGRAM; AND

5 (2) PAY TO THE DIRECTOR COURT-ORDERED PAYMENTS FOR
6 RESTITUTION.

7 (F) CONSTRUCTION OF SECTION.

8 AN INMATE EMPLOYED IN THE COMMUNITY UNDER THIS SECTION IS NOT AN
9 AGENT OR EMPLOYEE OF THE COUNTY, THE DIRECTOR, ANY JUDICIAL OFFICER, OR
10 ANY PUBLIC OFFICER OF THE COUNTY.

11 (G) PENALTIES.

12 (1) AN INMATE WHO VIOLATES A CONDITION OR PROVISION OF TRUST
13 THAT THE SENTENCING JUDGE OR THE DEPARTMENT ESTABLISHES IS SUBJECT TO:

14 (I) REMOVAL FROM THE WORK RELEASE PROGRAM; AND

15 (II) CANCELLATION OF ANY EARNED DIMINUTION OF THE
16 INMATE'S TERM OF CONFINEMENT.

17 (2) A VIOLATION OF A TERM OF LEAVE UNDER THIS SECTION IS A
18 VIOLATION OF ARTICLE 27, § 139 OF THE CODE.

19 REVISOR'S NOTE: Subsection (a) of this section is new language added to
20 avoid repetition of the full name of the "Howard County Department of
21 Correction" and the full title of the "Director of the Howard County
22 Department of Correction".

23 Subsection (b) of this section is new language added to clarify that this
24 section applies only in Howard County.

25 Subsections (c) through (g) of this section are new language derived
26 without substantive change from former Art. 27, § 645EE.

27 In subsection (d)(1) of this section, the reference to "allow[ing]" an
28 individual to participate in the work release program is substituted for the
29 former reference to "prescrib[ing] that the individual may" participate in
30 the program for consistency throughout this article with regard to
31 discretionary language.

32 Also in subsection (d)(1) of this section, the reference to "confinement" is
33 substituted for the former reference to "incarceration" for consistency
34 throughout this article. See General Revisor's Note to this article.
35 Similarly, in subsection (g)(1)(ii) of this section, the reference to the
36 diminution of "the inmate's term of confinement" is substituted for the

1 former reference to the diminution of "sentence".

2 In subsection (d)(1)(ii) of this section, the reference to charges pending in
3 any "jurisdiction" is substituted for the former reference to those that are
4 pending in any "city, county, or state" for consistency within this subtitle.
5 See, e.g., §§ 11-708(b)(2)(ii), 11-709(b)(3), 11-712(b)(4)(ii) and (d)(3)(ii),
6 11-714(d)(3)(ii), 11-723(b)(3)(ii), and 11-724(e)(2) of this subtitle. The
7 Correctional Services Article Review Committee notes, for consideration by
8 the General Assembly, that the reference to charges pending in any
9 "jurisdiction", which includes charges filed in federal court, may be broader
10 than the more ambiguous reference to charges pending in any "city, county,
11 or state".

12 The Correctional Services Article Review Committee notes, for
13 consideration by the General Assembly, that subsection (d)(1) of this
14 section authorizes a "sentencing judge" to allow an individual to
15 participate in the work release program. Subsection (d)(1) is silent as to
16 what happens when the sentencing judge is unable to act on the matter.
17 The General Assembly may wish to amend subsection (d)(1) to state
18 expressly that, when the sentencing judge is unable to act, the authority to
19 place an individual in the work release program extends to other judges of
20 the committing court. See, e.g., §§ 11-704(c)(1)(i), 11-706(b)(2),
21 11-712(c)(2)(ii), and 11-717(d)(1) and (2) and (f)(3) of this subtitle.
22 Alternatively, the General Assembly may wish to amend subsection (d)(1)
23 to reflect the language of Maryland Rule 4-347, which establishes
24 procedures for hearings on alleged violations of probation. Maryland Rule
25 4-347 requires "[t]he court" to hold a hearing to determine whether a
26 violation has occurred. The rule also provides that "[w]henever practicable,
27 the hearing shall be held before the sentencing judge". See also §§
28 11-708(c)(2), 11-709(b)(2)(i) and (3)(i), 11-712(d)(2) and (3)(i), 11-714(b)(1)
29 and (3)(i) and (d)(2) and (3)(i), and 11-723(b)(2) and (3)(i) of this subtitle
30 and accompanying Revisor's Notes. If the General Assembly amends
31 subsection (d)(1), a corresponding change should be made to subsection
32 (g)(1)(i) of this section, which refers to a condition established by the
33 "sentencing judge".

34 In subsection (d)(2) of this section, the reference to an inmate "in the
35 custody of" the Howard County Detention Center is substituted for the
36 former reference to an inmate "who has been sentenced to" the Howard
37 County Detention Center for consistency with paragraphs (1)(i) and (4) of
38 this subsection, which refer to an individual who "has been sentenced to
39 the custody of the Department". An individual who is sentenced to the
40 custody of the Department may be placed in the custody of the Howard
41 County Detention Center.

42 Also in subsection (d)(2) of this section, the phrase "may leave" is
43 substituted for the former phrase "may be granted the privilege of leaving"
44 for brevity.

1 In subsection (d)(3) of this section, the former reference to an "individual's"
2 regular employment is deleted as implied in the reference to "regular
3 employment".

4 The Correctional Services Article Review Committee notes, for
5 consideration by the General Assembly, that subsection (e) of this section
6 sets forth rules governing the disposition of an inmate's earnings. The
7 Committee further notes that there are significant inconsistencies
8 throughout this article in statutory provisions governing the disposition of
9 an inmate's earnings in different contexts. See, e.g., §§ 3-804, 3-807(e)(1),
10 9-504(d), 9-512(b), 11-319(b), 11-407(b), 11-604, 11-703(d)(4), 11-704(d),
11 11-705(i), 11-706(b)(5), 11-707(b), 11-708(b)(7), 11-711(g), 11-712(c)(5),
12 11-714(c)(4), 11-716(g), 11-717(e), 11-718(e), 11-719(b), 11-722(b),
13 11-724(g), and 11-725(b) of this article and accompanying Revisor's Notes.
14 The General Assembly may wish to examine all of the relevant provisions
15 and determine whether they should be changed to reflect a more consistent
16 policy in this area.

17 In subsection (f) of this section, the phrase "is not an agent or employee" is
18 substituted for the former phrase "may not be considered to be an agent or
19 employee" for consistency with other provisions in this subtitle. See, e.g., §
20 11-703(c)(3).

21 Also in subsection (f) of this section, the former reference to any "other"
22 judicial officer is deleted to avoid the implication that the County and the
23 Director of the County Department of Correction are "judicial" in nature.

24 Also in subsection (f) of this section, the former reference to any judicial
25 officer "of the county" is deleted for accuracy. There are no judicial officers
26 of the County. All courts in the county are State courts.

27 The Correctional Services Article Review Committee notes, for
28 consideration by the General Assembly, that subsection (f) of this section
29 could be clarified by stating that an inmate is not an agent or employee of
30 "the court".

31 The Correctional Services Article Review Committee notes, for
32 consideration by the General Assembly, that subsection (g)(2) of this
33 section is one of many provisions in this article that relates to inmates who
34 escape while legitimately outside the confines of a correctional facility
35 (e.g., while on work release, home detention, pretrial release, weekend
36 leave, compassionate leave, family leave, etc.). For a discussion of the
37 Committee's perspective on these provisions, see § 3-305(c) of this article
38 and accompanying Revisor's Note.

39 Defined terms: "Court" § 11-701

40 "Inmate" § 1-101

1 11-716. KENT COUNTY.

2 (A) "WARDEN" DEFINED.

3 IN THIS SECTION, "WARDEN" MEANS THE WARDEN OF THE KENT COUNTY
4 DETENTION CENTER.

5 (B) SCOPE OF SECTION.

6 THIS SECTION APPLIES ONLY IN KENT COUNTY.

7 (C) AUTHORIZED PROGRAMS.

8 THE COUNTY COMMISSIONERS MAY ESTABLISH UNDER THE KENT COUNTY
9 DETENTION CENTER PROGRAMS FOR:

10 (1) COMMUNITY SERVICE;

11 (2) HOME DETENTION;

12 (3) PRETRIAL RELEASE; AND

13 (4) WORK RELEASE.

14 (D) REGULATIONS.

15 THE COUNTY COMMISSIONERS SHALL ADOPT REGULATIONS NECESSARY TO
16 IMPLEMENT EACH PROGRAM ESTABLISHED UNDER THIS SECTION.

17 (E) ELIGIBILITY FOR INMATE PARTICIPATION.

18 AT THE TIME OF SENTENCING OR AT ANY TIME DURING AN INDIVIDUAL'S
19 CONFINEMENT, THE COURT MAY ALLOW AN INDIVIDUAL TO PARTICIPATE IN ANY
20 PROGRAM ESTABLISHED UNDER THIS SECTION IF THE INDIVIDUAL:

21 (1) IS SENTENCED TO THE CUSTODY OF THE WARDEN; AND

22 (2) HAS NO OTHER CHARGES PENDING IN ANY JURISDICTION.

23 (F) PRIVILEGES OF PARTICIPATING INMATE.

24 AN INMATE DESIGNATED TO PARTICIPATE IN A PROGRAM UNDER THIS SECTION
25 MAY LEAVE THE KENT COUNTY DETENTION CENTER TO:

26 (1) CONTINUE REGULAR EMPLOYMENT;

27 (2) SEEK NEW EMPLOYMENT; OR

28 (3) RECEIVE THERAPY FOR DRUG OR ALCOHOL ADDICTION.

29 (G) COLLECTION AND DISTRIBUTION OF WORK RELEASE INCOME.

1 (1) THE WARDEN OR WARDEN'S DESIGNEE SHALL COLLECT THE
2 EARNINGS OF AN INMATE DESIGNATED TO PARTICIPATE IN A WORK RELEASE
3 PROGRAM, LESS ANY PAYROLL DEDUCTION REQUIRED BY LAW.

4 (2) FROM THE EARNINGS OF THE INMATE, THE WARDEN SHALL DEDUCT
5 AND DISBURSE AN AMOUNT:

6 (I) THE WARDEN DETERMINES TO BE THE COST TO THE COUNTY
7 FOR PROVIDING FOOD, LODGING, AND CLOTHING FOR THE INMATE;

8 (II) THE COUNTY ACTUALLY INCURS FOR NECESSARY FOOD,
9 TRAVEL, AND OTHER EXPENSES INCIDENTAL TO PARTICIPATION BY THE INMATE IN
10 THE PROGRAM;

11 (III) A COURT IMPOSES FOR A FINE, COST, OR RESTITUTION;

12 (IV) THE INMATE IS LEGALLY OBLIGATED TO PAY, OR REASONABLY
13 WANTS TO PAY, FOR SUPPORT OF A DEPENDENT; AND

14 (V) A COURT ORDERS THE INMATE TO REPAY TO THE STATE OR TO
15 THE COUNTY FOR THE SERVICES OF AN ATTORNEY APPOINTED BY THE COURT.

16 (3) THE WARDEN SHALL:

17 (I) CREDIT TO THE INMATE'S ACCOUNT ANY REMAINING BALANCE;
18 AND

19 (II) DISPOSE OF THE BALANCE IN THE INMATE'S ACCOUNT AS THE
20 INMATE REASONABLY REQUESTS AND AS THE WARDEN APPROVES.

21 (H) VIOLATION OF PROGRAM CONDITIONS.

22 (1) IF AN INMATE VIOLATES A TRUST OR A CONDITION THAT THE COURT
23 OR THE KENT COUNTY DETENTION CENTER ESTABLISHES FOR CONDUCT OR
24 EMPLOYMENT, THE INMATE IS SUBJECT TO:

25 (I) REMOVAL FROM A PROGRAM SPECIFIED IN SUBSECTION (C) OF
26 THIS SECTION; AND

27 (II) CANCELLATION OF ANY EARNED DIMINUTION OF THE
28 INMATE'S TERM OF CONFINEMENT.

29 (2) THE FAILURE OF AN INMATE TO COMPLY WITH THE TERMS OF THE
30 INMATE'S AUTHORIZATION FOR LEAVE IS A VIOLATION OF ARTICLE 27, § 139 OF THE
31 CODE.

32 (3) IF A CONDITION THAT A COURT IMPOSES ON AN INMATE IS
33 INCONSISTENT WITH A REGULATION ADOPTED UNDER THIS SECTION, THE
34 CONDITION IMPOSED BY THE COURT CONTROLS AS TO THAT INMATE.

1 (4) IF AN INMATE VIOLATES A TRUST OR A CONDITION THAT A COURT
2 OR THE DETENTION CENTER ESTABLISHES, THE KENT COUNTY DETENTION CENTER
3 SHALL NOTIFY THE SENTENCING COURT IN WRITING OF THE VIOLATION.

4 (I) PAYMENTS BY PARTICIPANTS IN OTHER WORK RELEASE PROGRAM.

5 (1) INMATES OF THE KENT COUNTY DETENTION CENTER WHO ARE
6 EMPLOYED UNDER § 11-602 OF THIS TITLE SHALL PAY:

7 (I) COURT-ORDERED PAYMENTS FOR RESTITUTION; AND

8 (II) THE REASONABLE COST OF THE FOOD, LODGING, AND
9 CLOTHING OF THE INMATE.

10 (2) THE COUNTY COMMISSIONERS SHALL:

11 (I) ESTABLISH A REASONABLE PER DIEM RATE FOR THE FOOD,
12 LODGING, AND CLOTHING OF AN INMATE; AND

13 (II) DESIGNATE THE WARDEN AS THE AGENT TO COLLECT THESE
14 COSTS.

15 (J) PAYMENTS BY WEEKEND INMATES.

16 (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE COUNTY MAY
17 COLLECT FROM AN INMATE WHO IS SENTENCED TO THE KENT COUNTY DETENTION
18 CENTER FOR NONCONSECUTIVE PERIODS OF 48 HOURS OR LESS AN AMOUNT
19 DETERMINED TO BE THE AVERAGE COST TO THE COUNTY OF PROVIDING FOOD,
20 LODGING, AND CLOTHING FOR THE INMATE.

21 (2) A COURT MAY WAIVE ANY OR ALL OF THE CHARGE SPECIFIED IN
22 PARAGRAPH (1) OF THIS SUBSECTION.

23 (K) COMPASSIONATE LEAVE.

24 (1) THE WARDEN OR WARDEN'S DESIGNEE MAY AUTHORIZE
25 COMPASSIONATE LEAVE UNDER THIS SUBSECTION FOR ANY INMATE COMMITTED TO
26 THE KENT COUNTY DETENTION CENTER:

27 (I) TO VISIT A SERIOUSLY ILL MEMBER OF THE IMMEDIATE
28 FAMILY OF THE INMATE; OR

29 (II) TO ATTEND A VIEWING OR FUNERAL OF A MEMBER OF THE
30 IMMEDIATE FAMILY OF THE INMATE.

31 (2) THE FAILURE OF AN INMATE TO COMPLY WITH THE TERMS OF AN
32 AUTHORIZATION FOR COMPASSIONATE LEAVE IS A VIOLATION UNDER SUBSECTION
33 (H) OF THIS SECTION.

1 (3) AN INMATE WHO IS GRANTED COMPASSIONATE LEAVE MAY BE
2 REQUIRED TO REIMBURSE THE KENT COUNTY DETENTION CENTER FOR ANY
3 EXPENSES THAT THE DETENTION CENTER INCURS IN GRANTING THE LEAVE.

4 (4) THE WARDEN SHALL ADOPT REGULATIONS NECESSARY TO CARRY
5 OUT THIS SUBSECTION.

6 REVISOR'S NOTE: Subsection (a) of this section is new language added to avoid
7 repetition of the full title of the "warden of the Kent County Detention
8 Center".

9 Subsection (b) of this section is new language added to clarify that this
10 section applies only in Kent County.

11 Subsections (c) through (k) of this section are new language derived
12 without substantive change from former Art. 27, § 645HH.

13 In subsection (e) of this section, the reference to an individual's
14 "confinement" is substituted for the former reference to an individual's
15 "incarceration" for consistency throughout this article. See General
16 Revisor's Note to this article. Similarly, in subsection (h)(1)(ii) of this
17 section, the reference to diminution of the "inmate's term of confinement"
18 is added.

19 Also in subsection (e) of this section, the reference to "allow[ing] an
20 individual" to participate in any program is substituted for the former
21 reference to "prescrib[ing] that the individual may" participate in any
22 program for consistency throughout this article with regard to
23 discretionary language.

24 In subsection (f) of this section, the phrase "may leave" is substituted for
25 the former phrase "may be granted the privilege of leaving" for brevity.

26 Also in subsection (f) of this section, the former reference to an
27 "individual's" regular employment is deleted as implied in the reference to
28 "regular employment".

29 In subsection (g)(1) of this section, the reference to "surrender[ing]"
30 earnings is deleted as included in the reference to "collect[ing]" earnings.

31 In subsection (g)(2)(iii) of this section, the reference to a fine, cost, "or"
32 restitution is substituted for the former reference to fines, costs, "and"
33 restitution to distinguish each of these different forms of judicially imposed
34 payments and to avoid any implication under former Art. 27, §
35 645HH(f)(2)(iii) that a deduction from the income of an individual could
36 only be made if the individual were legally obligated to pay all three types
37 of payments in a particular case. See also § 11-711(g)(2)(iii) of this subtitle.

38 In subsection (g)(2)(v) of this section, the former reference to payments
39 made "[i]f applicable" is deleted as unnecessary in light of the reference to

1 payments that a "court orders".

2 The Correctional Services Article Review Committee notes, for
3 consideration by the General Assembly, that subsection (g)(2)(v) of this
4 section is silent as to whether, from the earnings of an inmate in the
5 program, the Public Defender will be repaid for services provided to the
6 inmate. Compare §§ 11-703(d)(4)(ii)6 and 11-705(i)(2)(v) of this subtitle.
7 The General Assembly may wish to amend subsection (g)(2)(v) to require
8 that the warden deduct and disburse, from the earnings of an inmate, any
9 amount that the inmate was ordered to pay under Art. 27A, § 7 for services
10 rendered by the Public Defender.

11 The Correctional Services Article Review Committee also notes, for
12 consideration by the General Assembly, that subsection (g) of this section,
13 which sets forth rules governing the disposition of an inmate's earnings, is
14 one of many provisions in this article that relates to this subject. However,
15 there are significant inconsistencies throughout this article in the
16 provisions that govern the disposition of an inmate's earnings in different
17 contexts. See, e.g., §§ 3-804, 3-807(e)(1), 9-504(d), 9-512(b), 11-319(b),
18 11-407(b), 11-604, 11-703(d)(4), 11-704(d), 11-705(i), 11-706(b)(5),
19 11-707(b), 11-708(b)(7), 11-711(g), 11-712(c)(5), 11-714(c)(4), 11-715(e),
20 11-717(e), 11-718(e), 11-719(b), 11-722(b), 11-724(g), and 11-725(b) of
21 this article and accompanying Revisor's Notes. The General Assembly may
22 wish to examine all of the relevant provisions and determine whether they
23 should be changed to reflect a more consistent policy in this area.

24 In subsection (h)(1) of this section, the reference to "establish[ing]" a trust
25 or condition is substituted for the former reference to "prescrib[ing]" a
26 trust or condition for stylistic consistency within this article.

27 In subsection (h)(1)(i) of this section, the reference to a program under
28 "subsection (c)" of this section is substituted for the former erroneous
29 cross-reference to "subsection (a)" of this section in former Art. 27, §
30 645HH(e). Former Art. 27, § 645HH(a), which is revised in subsection (i)(2)
31 of this section, required employed inmates to make certain restitution
32 payments and to pay certain costs. Former Art. 27, § 645HH(c)(1), which is
33 revised as subsection (c) of this section, specified the programs in which an
34 inmate was authorized to participate.

35 The Correctional Services Article Review Committee notes, for
36 consideration by the General Assembly, that subsection (h)(2) of this
37 section is one of many provisions in this article that relates to inmates who
38 escape while legitimately outside the confines of a correctional facility
39 (e.g., while on work release, home detention, pretrial release, weekend
40 leave, compassionate leave, family leave, etc.). For a discussion of the
41 Committee's perspective on these provisions, see § 3-305(c) of this article
42 and accompanying Revisor's Note.

43 In subsection (h)(4) of this section, the reference to a trust or condition

1 "that a court or the detention center establishes" is added to state
2 expressly that which was only implied in the former law.

3 Also in subsection (h)(4) of this section, the reference to the duty of the
4 detention center to notify the sentencing court in writing "of the violation"
5 is added to state expressly that which was only implied in the former law.

6 In the introductory language of subsection (i)(1) of this section, the former
7 reference to an inmate "incarcerated" in the Kent County Detention Center
8 is deleted as implied in the reference to "[i]nmates". See § 1-101 of this
9 article for the definition of "inmate".

10 Also in the introductory language of subsection (i)(1) of this section, the
11 former phrase "while in the Detention Center" is deleted as implied in the
12 reference to "[i]nmates of the ... Detention Center".

13 In subsection (i)(2)(i) of this section, the reference to "an inmate" is added
14 to state expressly that which was only implied in the former law.

15 In subsection (j) of this section, the former reference to "weekend prisoner"
16 is deleted as surplusage.

17 In subsection (k)(3) of this section, the reference to "detention center" is
18 substituted for the former erroneous reference to "Department" for
19 accuracy.

20 Defined terms: "Court" § 11-701

21 "Inmate" § 1-101

22 11-717. MONTGOMERY COUNTY.

23 (A) "DIRECTOR" DEFINED.

24 IN THIS SECTION, "DIRECTOR" MEANS THE DIRECTOR OF THE MONTGOMERY
25 COUNTY DEPARTMENT OF CORRECTION AND REHABILITATION.

26 (B) SCOPE OF SECTION.

27 THIS SECTION APPLIES ONLY IN MONTGOMERY COUNTY.

28 (C) AUTHORITY TO ESTABLISH PROGRAMS.

29 (1) THE COUNTY COUNCIL SHALL ESTABLISH WORK RELEASE AND
30 PRERELEASE PROGRAMS IN ACCORDANCE WITH THIS SECTION.

31 (2) A WORK RELEASE OR PRERELEASE PROGRAM SHALL PROVIDE THAT
32 AN INMATE OF THE COUNTY DEPARTMENT OF CORRECTION AND REHABILITATION,
33 ON APPROVAL OF THE DIRECTOR, MAY LEAVE CONFINEMENT DURING NECESSARY
34 AND REASONABLE HOURS TO SEEK OR WORK AT GAINFUL EMPLOYMENT AND TO
35 PARTICIPATE IN OTHER REHABILITATIVE ACTIVITIES, INCLUDING:

- 1 (I) INTENSIVE COUNSELING;
2 (II) ACADEMIC EDUCATION;
3 (III) HOME VISITATION;
4 (IV) TRANSITIONAL PHASED RELEASE PROGRAMS; AND
5 (V) MAXIMUM USE OF OTHER COMMUNITY RESOURCES OR OTHER
6 SIMILAR REHABILITATIVE ACTIVITIES.

7 (D) WORK RELEASE AUTHORIZED.

8 (1) AT ANY TIME DURING THE CONFINEMENT OF AN INMATE OF THE
9 COUNTY DEPARTMENT OF CORRECTION AND REHABILITATION, THE JUDGE WHO
10 ORDERED THE CONFINEMENT OR, IF THAT JUDGE IS UNABLE TO ACT, ANOTHER
11 JUDGE OF THE COMMITTING COURT, MAY APPROVE THE TRANSFER OF THE INMATE
12 TO THE WORK RELEASE/PRERELEASE CENTER TO PARTICIPATE IN A WORK RELEASE
13 OR PRERELEASE PROGRAM:

14 (I) IN ACCORDANCE WITH THE SELECTION REQUIREMENTS AND
15 PROGRAMS ESTABLISHED BY THE COUNTY COUNCIL; AND

16 (II) AFTER A RECOMMENDATION BY THE DIRECTOR OR THE
17 DIRECTOR'S DESIGNEE.

18 (2) AFTER THE INMATE ENTERS THE WORK RELEASE OR PRERELEASE
19 PROGRAM, THE JUDGE WHO ORDERED CONFINEMENT OR, IF THAT JUDGE IS UNABLE
20 TO ACT, ANOTHER JUDGE OF THE COMMITTING COURT, MAY ORDER THE RELEASE
21 OF THE INMATE FROM CUSTODY BASED ON:

22 (I) THE RECOMMENDATION OF THE DIRECTOR OR DIRECTOR'S
23 DESIGNEE; AND

24 (II) THE REPORT OF THE INMATE'S PERFORMANCE IN THE WORK
25 RELEASE OR PRERELEASE PROGRAM.

26 (3) WHEN NOT EMPLOYED OR OTHERWISE PARTICIPATING IN A WORK
27 RELEASE PROGRAM, THE INMATE SHALL BE CONFINED IN THE PRERELEASE CENTER
28 UNLESS THE COMMITTING COURT DIRECTS OTHERWISE.

29 (E) COLLECTION AND DISTRIBUTION OF WORK RELEASE INCOME.

30 (1) THE DIRECTOR OR THE DIRECTOR'S DESIGNEE SHALL COLLECT THE
31 EARNINGS OF AN INMATE PARTICIPATING IN A WORK RELEASE OR PRERELEASE
32 PROGRAM UNDER THIS SECTION, LESS ANY PAYROLL DEDUCTION REQUIRED BY
33 LAW.

34 (2) FROM THE EARNINGS OF THE INMATE, THE DIRECTOR MAY DEDUCT:

1 (I) THE AMOUNT DETERMINED TO BE THE COST TO THE COUNTY
2 OF PROVIDING FOOD, LODGING, AND CLOTHING FOR THE INMATE;

3 (II) ACTUAL AND NECESSARY FOOD, TRAVEL, AND OTHER
4 EXPENSES INCIDENTAL TO THE INMATE'S PARTICIPATION IN THE PROGRAM;

5 (III) AN AMOUNT THE INMATE IS LEGALLY OBLIGATED OR DESIRES
6 TO PAY FOR THE SUPPORT OF A DEPENDENT;

7 (IV) IF APPLICABLE, A REASONABLE AMOUNT TO REPAY THE STATE
8 OR THE COUNTY FOR AN ATTORNEY APPOINTED BY THE COURT; AND

9 (V) COURT-ORDERED PAYMENTS FOR RESTITUTION.

10 (3) THE DIRECTOR SHALL:

11 (I) CREDIT TO THE INMATE'S ACCOUNT ANY REMAINING BALANCE;
12 AND

13 (II) DISPOSE OF THE BALANCE IN THE INMATE'S ACCOUNT AS THE
14 INMATE REQUESTS AND THE DIRECTOR APPROVES.

15 (F) PENALTIES.

16 (1) IF AN INMATE VIOLATES A TRUST OR A CONDITION THAT THE
17 COUNTY COUNCIL ESTABLISHES FOR CONDUCT OR EMPLOYMENT, THE INMATE IS
18 SUBJECT TO:

19 (I) REMOVAL FROM THE PROGRAM; AND

20 (II) CANCELLATION OF ANY EARNED DIMINUTION OF THE
21 INMATE'S TERM OF CONFINEMENT.

22 (2) THE FAILURE OF AN INMATE TO COMPLY WITH THE TERMS OF THE
23 INMATE'S AUTHORIZATION FOR LEAVE IS A VIOLATION OF ARTICLE 27, § 139 OF THE
24 CODE.

25 (3) IF AN INMATE VIOLATES A CONDITION OR A TERM OF THE PROGRAM
26 AND THE DIRECTOR OR THE DIRECTOR'S DESIGNEE REMOVES THE INMATE FROM
27 THE PROGRAM BECAUSE OF THE VIOLATION, A JUDGE OF THE COMMITTING COURT
28 MAY REDESIGNATE THE DIVISION OF CORRECTION AS THE AGENCY OF CUSTODY
29 FOR THE REMAINING TERM OF THE INMATE'S CONFINEMENT.

30 (G) SERVICES TO BE PROVIDED BY COUNTY DEPARTMENT.

31 (1) THE COUNTY DEPARTMENT OF CORRECTION AND REHABILITATION
32 SHALL PROVIDE ALL WORK RELEASE, PRERELEASE, AND SIMILAR SERVICES TO
33 COUNTY RESIDENTS WHO ARE SENTENCED TO THE JURISDICTION OF THE DIVISION
34 OF CORRECTION.

1 (2) THE COMMISSIONER OF CORRECTION MAY TRANSFER TO THE
2 COUNTY DEPARTMENT OF CORRECTION AND REHABILITATION ONLY THOSE
3 ELIGIBLE INDIVIDUALS WHO ARE SCREENED AND RECOMMENDED FOR APPROVAL
4 FOR THE WORK RELEASE OR PRERELEASE PROGRAM, OR BOTH PROGRAMS, BY BOTH
5 CORRECTIONAL AGENCIES.

6 (3) THE COUNTY FACILITIES SHALL OPERATE IN ACCORDANCE WITH
7 GENERAL OPERATIONAL STANDARDS THAT THE COMMISSIONER OF CORRECTION
8 APPROVES.

9 (4) THE COUNTY DEPARTMENT OF CORRECTION AND REHABILITATION
10 AND THE DIVISION OF CORRECTION SHALL NEGOTIATE A CONTRACT EACH YEAR
11 THAT PROVIDES FOR STATE REIMBURSEMENT ON A PER DIEM BASIS FOR
12 OPERATIONAL COSTS TO THE COUNTY FOR PROVIDING THE COMMUNITY
13 CORRECTIONAL SERVICES DESCRIBED IN THIS SECTION TO INMATES SENTENCED TO
14 THE DIVISION OF CORRECTION AND CONFINED IN THE COUNTY DEPARTMENT OF
15 CORRECTION AND REHABILITATION.

16 REVISOR'S NOTE: Subsection (a) of this section is new language added to
17 avoid repetition of the full title of the "Director of the Montgomery County
18 Department of Correction and Rehabilitation".

19 Subsection (b) of this section is new language added to clarify that this
20 section applies only in Montgomery County.

21 Subsections (c) through (g) of this section are new language derived
22 without substantive change from former Art. 27, § 645T.

23 Throughout this section, the references to an "individual" are substituted
24 for the former references to a "person" because only a human being, and
25 not the other entities included in the defined term "person", can be
26 detained or sentenced to confinement. See § 1-101 of this article for the
27 definition of "person".

28 In subsection (c)(1) of this section, the word "shall" is substituted for the
29 former phrase "is authorized and directed to" for consistency throughout
30 this article with regard to mandatory language.

31 In subsection (c)(2) of this section, the phrase "may leave" is substituted for
32 the former phrase "may be granted the privilege of leaving" for brevity.

33 Also in subsection (c)(2) of this section, the reference to an "inmate of" the
34 Department of Correction and Rehabilitation is substituted for the former
35 reference to persons "detained or sentenced" to the Department for
36 consistency throughout this article. See § 1-101 of this article for the
37 definition of "inmate". Similarly, in subsection (d)(1) of this section, the
38 reference to a judge's authority to approve the transfer of an "inmate" is
39 substituted for the former reference to a judge's authority to approve the
40 transfer of a "person who is detained or sentenced".

- 1 In subsection (d)(2) of this section, the phrase "work release or prerelease
2 program" is substituted for the former phrase "correctional program" for
3 consistency within this section.
- 4 In subsection (e)(1) of this section, the former reference to "surrender[ing]"
5 earnings is deleted as included in the reference to "collect[ing]" earnings.
- 6 The Correctional Services Article Review Committee notes, for
7 consideration by the General Assembly, that subsection (e)(2)(iv) of this
8 section is silent as to whether, from the earnings of an inmate in the
9 program, the Public Defender will be repaid for services provided to the
10 inmate. Compare § 11-703(d)(4)(ii)6 of this subtitle. The General Assembly
11 may wish to amend subsection (e)(2)(iv) to require that the warden deduct
12 and disburse, from the earnings of an inmate, any amount that the inmate
13 was ordered to pay under Art. 27A, § 7 of the Code for services rendered by
14 the Public Defender.
- 15 The Correctional Services Article Review Committee also notes, for
16 consideration by the General Assembly, that subsection (e) of this section,
17 which sets forth rules governing the disposition of an inmate's earnings, is
18 one of many provisions in this article that relates to this subject. However,
19 there are significant inconsistencies throughout this article in the
20 provisions that govern the disposition of an inmate's earnings in different
21 contexts. See, e.g., §§ 3-804, 3-807(e)(1), 9-504(d), 9-512(b), 11-319(b),
22 11-407(b), 11-604, 11-703(d)(4), 11-704(d), 11-705(i), 11-706(b)(5),
23 11-707(b), 11-708(b)(7), 11-711(g), 11-712(c)(5), 11-714(c)(4), 11-715(e),
24 11-716(g), 11-718(e), 11-719(b), 11-722(b), 11-724(g), and 11-725(b) of
25 this article and accompanying Revisor's Notes. The General Assembly may
26 wish to examine all of the relevant provisions and determine whether they
27 should be changed to reflect a more consistent policy in this area.
- 28 In subsection (f)(1) of this section, the reference to "establish[ing]" a trust
29 or condition is substituted for the former reference to "prescrib[ing]" a
30 trust or condition for stylistic consistency throughout this article.
- 31 The Correctional Services Article Review Committee notes, for
32 consideration by the General Assembly, that subsection (f)(2) of this section
33 is one of many provisions in this article that relates to inmates who escape
34 while legitimately outside the confines of a correctional facility (e.g., while
35 on work release, home detention, pretrial release, weekend leave,
36 compassionate leave, family leave, etc.). For a discussion of the
37 Committee's perspective on these provisions, see § 3-305(c) of this article
38 and accompanying Revisor's Note.
- 39 In subsection (g)(1) of this section, the reference to individuals who are
40 sentenced to the "jurisdiction" of the Division of Correction is substituted
41 for the former reference to individuals who are sentenced to the "custody"
42 of the Division of Correction for consistency with § 9-103(a) of this article.

1 In subsection (g)(4) of this section, the reference to inmates who are
2 "confined" in the Department of Correction and Rehabilitation is
3 substituted for the former reference to inmates who are "incarcerated" in
4 that facility for consistency throughout this article. See General Revisor's
5 Note to this article.

6 Defined terms: "Commissioner of Correction" § 1-101

7 "Court" § 11-701

8 "Division of Correction" § 1-101

9 "Inmate" § 1-101

10 11-718. PRINCE GEORGE'S COUNTY.

11 (A) "ADMINISTRATOR" DEFINED.

12 IN THIS SECTION, "ADMINISTRATOR" MEANS AN ADMINISTRATOR OF A COUNTY
13 DETENTION CENTER.

14 (B) SCOPE OF SECTION.

15 THIS SECTION APPLIES ONLY IN PRINCE GEORGE'S COUNTY.

16 (C) WORK RELEASE AUTHORIZED.

17 (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, AN
18 ADMINISTRATOR MAY ALLOW AN INMATE SENTENCED TO IMPRISONMENT IN A
19 DETENTION CENTER AFTER BEING CONVICTED OF A CRIME OR FOUND IN CONTEMPT
20 OF COURT TO LEAVE ACTUAL CONFINEMENT TO:

21 (I) SEEK OR WORK AT GAINFUL, PRIVATE EMPLOYMENT;

22 (II) PARTICIPATE IN A TRAINING OR REHABILITATION PROGRAM;
23 OR

24 (III) ATTEND EDUCATIONAL OR VOCATIONAL INSTITUTIONS IN THE
25 COUNTY.

26 (2) THE ADMINISTRATOR MAY ALLOW THE INMATE TO LEAVE
27 CONFINEMENT:

28 (I) IN ACCORDANCE WITH ESTABLISHED PROGRAMS;

29 (II) DURING NECESSARY AND REASONABLE HOURS; AND

30 (III) AFTER DETERMINING THAT THE INMATE IS ELIGIBLE FOR THE
31 PROGRAM AND RECOMMENDING IT TO AND RECEIVING WRITTEN APPROVAL FROM
32 THE SENTENCING OR ADMINISTRATIVE JUDGE.

33 (D) ADMINISTRATION OF THE PROGRAM.

1 (1) THE ADMINISTRATOR SHALL ADOPT GUIDELINES AND RULES FOR
2 THE CONDUCT OF THE WORK RELEASE PROGRAM THAT SHALL:

3 (I) TAKE INTO CONSIDERATION THE SECURITY OF THE
4 DETENTION CENTER AND THE SAFETY OF THE PUBLIC; AND

5 (II) CONFORM WITH CONDITIONS THAT A SENTENCING OR
6 ADMINISTRATIVE JUDGE MAY IMPOSE IN A PARTICULAR CASE.

7 (2) WHEN AN INMATE IS NOT EMPLOYED OR OTHERWISE
8 PARTICIPATING IN A WORK RELEASE PROGRAM, THE INMATE SHALL BE CONFINED
9 IN THE DETENTION CENTER IN THE SAME MANNER AS ANY OTHER INMATE
10 COMMITTED TO THE CUSTODY OF THE ADMINISTRATOR.

11 (3) IF AN INMATE VIOLATES A TRUST OR A CONDITION THAT THE
12 ADMINISTRATOR ESTABLISHES IN THE RULES FOR CONDUCT OR EMPLOYMENT, THE
13 INMATE IS:

14 (I) SUBJECT TO REMOVAL FROM THE WORK RELEASE PROGRAM;
15 AND

16 (II) AFTER AN ADMINISTRATIVE HEARING, SUBJECT TO
17 CANCELLATION OF ANY EARNED DIMINUTION OF THE INMATE'S TERM OF
18 CONFINEMENT.

19 (E) COLLECTION AND DISTRIBUTION OF WORK RELEASE INCOME.

20 (1) THE AUTHORIZED REPRESENTATIVE OF A DETENTION CENTER
21 SHALL COLLECT THE EARNINGS OF AN INMATE, LESS ANY PAYROLL DEDUCTIONS.

22 (2) FROM THE EARNINGS OF THE INMATE, THE AUTHORIZED
23 REPRESENTATIVE OF THE DETENTION CENTER SHALL DEDUCT:

24 (I) THE AMOUNT DETERMINED TO BE THE COST TO THE COUNTY
25 FOR FOOD, LODGING, AND CLOTHING FOR THE INMATE;

26 (II) ACTUAL AND NECESSARY FOOD, TRAVEL, AND OTHER
27 EXPENSES INCIDENTAL TO THE INMATE'S PARTICIPATION IN THE PROGRAM;

28 (III) AN AMOUNT THE INMATE IS LEGALLY OBLIGATED OR DESIRES
29 TO PAY FOR THE SUPPORT OF A DEPENDENT; AND

30 (IV) COURT-ORDERED PAYMENTS FOR RESTITUTION.

31 (3) THE AUTHORIZED REPRESENTATIVE OF THE DETENTION CENTER
32 SHALL CREDIT TO THE INMATE'S ACCOUNT ANY REMAINING BALANCE.

33 (F) EDUCATIONAL AND VOCATIONAL PROGRAMS.

1 (1) AN ADMINISTRATOR MAY DEVELOP EDUCATIONAL AND VOCATIONAL
2 PROGRAMS TO FURTHER THE EDUCATIONAL AND VOCATIONAL TRAINING OF AN
3 INMATE SENTENCED TO THE DETENTION CENTER.

4 (2) (I) THE ADMINISTRATOR SHALL ADOPT REGULATIONS TO GOVERN
5 THE CONDUCT AND PARTICIPATION OF AN INMATE IN AN EDUCATIONAL OR
6 VOCATIONAL PROGRAM AS NECESSARY FOR THE SECURITY OF THE DETENTION
7 CENTER AND THE SAFETY OF THE PUBLIC.

8 (II) IF AN INMATE VIOLATES A TRUST OR A CONDITION THAT THE
9 ADMINISTRATOR ESTABLISHES FOR CONDUCT DURING PARTICIPATION IN AN
10 EDUCATIONAL OR VOCATIONAL PROGRAM, THE INMATE:

11 1. IS SUBJECT TO REMOVAL FROM THE PROGRAM, WITH
12 NOTICE TO THE SENTENCING JUDGE; AND

13 2. AFTER AN ADMINISTRATIVE HEARING, IS SUBJECT TO
14 CANCELLATION OF ANY EARNED DIMINUTION OF THE INMATE'S TERM OF
15 CONFINEMENT.

16 REVISOR'S NOTE: Subsection (a) of this section is new language added to avoid
17 repetition of the full title of the "Administrator of a County Detention
18 Center".

19 Subsection (b) of this section is new language added to clarify that this
20 section applies only in Prince George's County.

21 Subsections (c) through (f) of this section are new language derived
22 without substantive change from former Art. 27, § 645V.

23 In subsection (c)(1) of this section, the reference to "allow[ing] an inmate"
24 to leave actual confinement is substituted for the former reference to
25 "prescrib[ing] that the person may be granted the privilege of" leaving
26 actual confinement for brevity and stylistic consistency throughout this
27 article.

28 Also in subsection (c)(1) of this section, the former references to an inmate
29 being allowed to leave confinement "during the prescribed term of
30 detention" and "while serving the term of his sentence" are deleted as
31 implicit in the reference to "an inmate sentenced to imprisonment in a
32 detention center".

33 The Correctional Services Article Review Committee notes, for
34 consideration by the General Assembly, that subsection (d)(1) of this
35 section refers to conditions imposed by the "sentencing or administrative
36 judge". The General Assembly may wish to amend this section to refer to
37 conditions imposed by the "court" or, alternatively, the "committing court".
38 See, e.g., §§ 11-704(c)(1)(i), 11-706(b)(2), 11-712(c)(2)(ii), and 11-717(d)(1)
39 and (2) and (f)(3) of this subtitle; see also General Revisor's Note to this
40 subtitle.

1 In subsection (d)(3)(ii) of this section, the reference to diminution of "the
2 inmate's term of confinement" is substituted for the former reference to
3 diminution of "sentence" for consistency throughout this article. See
4 General Revisor's Note to this article. In subsection (f)(2)(ii)2 of this
5 section, the reference to diminution of "the inmate's term of confinement"
6 is added for the same reason.

7 In subsections (d)(3) and (f)(2)(ii) of this section, the references to
8 "establish[ing]" a trust or condition are substituted for the former
9 references to "prescrib[ing]" a trust or condition for stylistic consistency
10 throughout this article.

11 In subsection (e)(1) of this section, the former reference to "surrender[ing]"
12 earnings is deleted as included in the reference to "collect[ing]" earnings.

13 In subsection (e)(2) and (3) of this section, the references to the "authorized
14 representative of the detention center" are added to state expressly that
15 which was only implied in the former law.

16 The Correctional Services Article Review Committee notes, for
17 consideration by the General Assembly, that subsection (e) of this section
18 sets forth rules governing the disposition of an inmate's earnings. The
19 Committee further notes that there are significant inconsistencies
20 throughout this article in statutory provisions governing the disposition of
21 an inmate's earnings in different contexts. See, e.g., §§ 3-804, 3-807(e)(1),
22 9-504(d), 9-512(b), 11-319(b), 11-407(b), 11-604, 11-703(d)(4), 11-704(d),
23 11-705(i), 11-706(b)(5), 11-707(b), 11-708(b)(7), 11-711(g), 11-712(c)(5),
24 11-714(c)(4), 11-715(e), 11-716(g), 11-717(e), 11-719(b), 11-722(b),
25 11-724(g), and 11-725(b) of this article and accompanying Revisor's Notes.
26 The General Assembly may wish to examine all of the relevant provisions
27 and determine whether they should be changed to reflect a more consistent
28 policy in this area.

29 In subsection (f)(2) of this section, the former reference to "rules" is deleted
30 as included in the reference to "regulations". See General Revisor's Note to
31 this article.

32 The Correctional Services Article Review Committee notes, for
33 consideration by the General Assembly, that subsection (f)(2)(ii)1 of this
34 section requires that notice be given to the "sentencing judge". Subsection
35 (f)(2)(ii)1 is silent as to what happens when the sentencing judge is retired
36 or otherwise not able to receive the required notice. The General Assembly
37 may wish to amend subsection (f)(2)(ii)1 to require that, in those situations
38 where the sentencing judge is not able to receive notice, the notice be given
39 to the committing court. See, e.g., §§ 11-704(c)(1)(i), 11-706(b)(2),
40 11-712(c)(2)(ii), and 11-717(d)(1) and (2) and (f)(3) of this subtitle.

41 Defined terms: "Court" § 11-701

42 "Inmate" § 1-101

1 11-719. QUEEN ANNE'S COUNTY.

2 (A) SCOPE OF SECTION.

3 THIS SECTION APPLIES ONLY IN QUEEN ANNE'S COUNTY.

4 (B) INMATE PAYMENTS.

5 WHILE CONFINED IN THE QUEEN ANNE'S COUNTY JAIL, AN INMATE EMPLOYED
6 UNDER § 11-602 OF THIS TITLE SHALL PAY:

7 (1) COURT-ORDERED PAYMENTS, INCLUDING RESTITUTION PAYMENTS;
8 AND

9 (2) THE REASONABLE COST OF THE FOOD, LODGING, AND CLOTHING OF
10 THE INMATE.

11 (C) DUTIES OF COUNTY COMMISSIONERS.

12 THE COUNTY COMMISSIONERS SHALL:

13 (1) ESTABLISH A REASONABLE PER DIEM RATE FOR THE FOOD,
14 LODGING, AND CLOTHING OF AN INMATE; AND

15 (2) DESIGNATE THE WARDEN OF THE QUEEN ANNE'S COUNTY JAIL AS
16 THE AGENT TO COLLECT THE COSTS AND PAYMENTS SPECIFIED IN THIS SECTION.

17 REVISOR'S NOTE: Subsection (a) of this section is new language added to
18 clarify that this section applies only in Queen Anne's County.

19 Subsections (b) and (c) of this section are new language derived without
20 substantive change from former Art. 27, § 639A.

21 In subsection (b) of this section, the reference to inmates who are
22 "confined" in the Queen Anne's County Jail is substituted for the former
23 reference to inmates who are "incarcerated" in that facility for consistency
24 throughout this article. See General Revisor's Note to this article.

25 Also in subsection (b) of this section, the phrase "while in the jail", which
26 formerly modified the reference to "the reasonable cost of their own food,
27 lodging, and clothing", is deleted as unnecessary in light of the reference in
28 the introductory language of this subsection to an inmate "[w]hile confined
29 in the Queen Anne's County Jail".

30 The Correctional Services Article Review Committee notes, for
31 consideration by the General Assembly, that subsection (b) of this section
32 sets forth rules governing the disposition of an inmate's earnings. The
33 Committee further notes that there are significant inconsistencies
34 throughout this article in statutory provisions governing the disposition of
35 an inmate's earnings in different contexts. See, e.g., §§ 3-804, 3-807(e)(1),
36 9-504(d), 9-512(b), 11-319(b), 11-407(b), 11-604, 11-703(d)(4), 11-704(d),

1 11-705(i), 11-706(b)(5), 11-707(b), 11-708(b)(7), 11-711(g), 11-712(c)(5),
2 11-714(c)(4), 11-715(e), 11-716(g), 11-717(e), 11-718(e), 11-722(b),
3 11-724(g), and 11-725(b) of this article and accompanying Revisor's Notes.
4 The General Assembly may wish to examine all of the relevant provisions
5 and determine whether they should be changed to reflect a more consistent
6 policy in this area.

7 In subsection (c)(1) of this section, the reference to "an inmate" is added to
8 state expressly that which was only implied under the former law.

9 Defined terms: "Court" § 11-701

10 "Inmate" § 1-101

11 11-720. RESERVED.

12 11-721. RESERVED.

13 11-722. TALBOT COUNTY.

14 (A) SCOPE OF SECTION.

15 THIS SECTION APPLIES ONLY IN TALBOT COUNTY.

16 (B) INMATE PAYMENTS.

17 WHILE CONFINED IN THE TALBOT COUNTY JAIL, AN INMATE EMPLOYED UNDER
18 § 11-602 OF THIS TITLE SHALL PAY:

19 (1) COURT-ORDERED PAYMENTS FOR RESTITUTION; AND

20 (2) THE COST OF THE FOOD, LODGING, AND CLOTHING OF THE INMATE.

21 (C) DUTIES OF THE COUNTY COUNCIL.

22 THE COUNTY COUNCIL SHALL:

23 (1) ESTABLISH THE PER DIEM RATE FOR THE FOOD, LODGING, AND
24 CLOTHING OF AN INMATE; AND

25 (2) DESIGNATE AN AGENT TO COLLECT THE COSTS SPECIFIED IN THIS
26 SECTION.

27 REVISOR'S NOTE: Subsection (a) of this section is new language added to
28 clarify that this section applies only in Talbot County.

29 Subsections (b) and (c) of this section are new language derived without
30 substantive change from former Art. 27, § 645CC.

31 In subsection (b) of this section, the reference to "confined" is substituted
32 for the former reference to "incarcerated" for consistency throughout this
33 article. See General Revisor's Note to this article.

1 Also in subsection (b) of this section, the phrase "while in the jail", which
 2 formerly modified the reference to "the cost of their own food, lodging, and
 3 clothing", is deleted as unnecessary in light of the reference in the
 4 introductory language of this subsection to an inmate "[w]hile confined in
 5 the Talbot County Jail".

6 The Correctional Services Article Review Committee notes, for
 7 consideration by the General Assembly, that subsection (b) of this section
 8 sets forth rules governing the disposition of an inmate's earnings. The
 9 Committee further notes that there are significant inconsistencies
 10 throughout this article in statutory provisions governing the disposition of
 11 an inmate's earnings in different contexts. See, e.g., §§ 3-804, 3-807(e)(1),
 12 9-504(d), 9-512(b), 11-319(b), 11-407(b), 11-604, 11-703(d)(4), 11-704(d),
 13 11-705(i), 11-706(b)(5), 11-707(b), 11-708(b)(7), 11-711(g), 11-712(c)(5),
 14 11-714(c)(4), 11-715(e), 11-716(g), 11-717(e), 11-718(e), 11-719(b),
 15 11-724(g), and 11-725(b) of this article and accompanying Revisor's Notes.
 16 The General Assembly may wish to examine all of the relevant provisions
 17 and determine whether they should be changed to reflect a more consistent
 18 policy in this area.

19 In subsection (c)(1) of this section, the reference to "an inmate" is added to
 20 state expressly that which was only implied in the former law.

21 Defined terms: "Court" § 11-701

22 "Inmate" § 1-101

23 11-723. WASHINGTON COUNTY.

24 (A) SCOPE OF SECTION.

25 THIS SECTION APPLIES ONLY IN WASHINGTON COUNTY.

26 (B) HOME DETENTION PROGRAM.

27 (1) THE SHERIFF SHALL:

28 (I) ESTABLISH AND ADMINISTER A HOME DETENTION PROGRAM;
 29 AND

30 (II) ADOPT REGULATIONS FOR THE PROGRAM.

31 (2) AT THE TIME OF SENTENCING OR AT ANY TIME DURING AN
 32 INDIVIDUAL'S CONFINEMENT, THE SENTENCING JUDGE MAY ALLOW AN INDIVIDUAL
 33 WHO IS CONVICTED OF A CRIME AND SENTENCED TO IMPRISONMENT TO
 34 PARTICIPATE IN THE HOME DETENTION PROGRAM.

35 (3) SUBJECT TO PARAGRAPH (4) OF THIS SUBSECTION, AN INMATE IS
 36 ELIGIBLE FOR THE HOME DETENTION PROGRAM IF THE INMATE:

- 1 (I) IS RECOMMENDED FOR THE PROGRAM BY THE SENTENCING
2 JUDGE; AND
- 3 (II) HAS NO OTHER CHARGES PENDING IN ANY JURISDICTION.
- 4 (4) AN INMATE IS NOT ELIGIBLE FOR THE HOME DETENTION PROGRAM
5 IF THE INMATE:
- 6 (I) IS SERVING A SENTENCE FOR A CRIME OF VIOLENCE; OR
7 (II) HAS BEEN FOUND GUILTY OF THE CRIME OF:
- 8 1. CHILD ABUSE UNDER ARTICLE 27, § 35C OF THE CODE; OR
9 2. ESCAPE UNDER ARTICLE 27, § 139 OF THE CODE.
- 10 (5) WHILE PARTICIPATING IN THE HOME DETENTION PROGRAM AN
11 INMATE IS RESPONSIBLE FOR:
- 12 (I) THE INMATE'S MEDICAL CARE AND RELATED EXPENSES; AND
13 (II) COSTS OF LODGING, FOOD, CLOTHING, TRANSPORTATION,
14 RESTITUTION, AND TAXES.
- 15 (6) THE SHERIFF MAY:
- 16 (I) COLLECT A REASONABLE FEE FROM EACH INMATE
17 PARTICIPATING IN THE HOME DETENTION PROGRAM; OR
18 (II) WAIVE OR REDUCE THE FEE.
- 19 (7) THE SHERIFF MAY DETERMINE THE MAXIMUM NUMBER OF INMATES
20 THAT MAY PARTICIPATE IN THE HOME DETENTION PROGRAM.
- 21 (8) AN INMATE WHO KNOWINGLY OR WILLFULLY VIOLATES A TERM OR
22 A CONDITION OF THE HOME DETENTION PROGRAM:
- 23 (I) IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS
24 SUBJECT TO A FINE NOT EXCEEDING \$10,000, IMPRISONMENT NOT EXCEEDING 1
25 YEAR, OR BOTH; AND
- 26 (II) IS SUBJECT TO OTHER DISCIPLINARY ACTION PROVIDED BY
27 LAW.

28 REVISOR'S NOTE: This section is new language derived without substantive
29 change from former Art. 27, § 645JJ, as it related to Washington County.

30 In subsection (b)(2) of this section, the reference to an individual's
31 "confinement" is substituted for the former reference to an individual's
32 "incarceration" for consistency throughout this article. See General
33 Revisor's Note to this article.

1 Also in subsection (b)(2) of this section, the reference to "allow[ing]" an
2 individual to participate in a home detention program is substituted for
3 the former reference to "prescrib[ing]" participation for stylistic
4 consistency throughout this article.

5 Also in subsection (b)(2) of this section, the former phrase "by any court in
6 the County" is deleted as unnecessary in light of subsection (a) of this
7 section.

8 Also in subsection (b)(2) of this section, the phrase "established under this
9 section", which formerly modified the phrase "home detention program", is
10 deleted as implied in the reference to "home detention program".

11 The Correctional Services Article Review Committee notes, for
12 consideration by the General Assembly, that subsection (b)(2) of this
13 section authorizes a "sentencing judge" to allow an individual to
14 participate in the home detention program. Subsection (b)(2) is silent as to
15 what happens when the sentencing judge is unable to act on the matter.
16 The General Assembly may wish to amend subsection (b)(2) to state
17 expressly that, when the sentencing judge is unable to act, the authority to
18 place an individual in the home detention program extends to other judges
19 of the committing court. See, e.g., §§ 11-704(c)(1)(i), 11-706(b)(2),
20 11-712(c)(2)(ii), and 11-717(d)(1) and (2) and (f)(3) of this subtitle.
21 Alternatively, the General Assembly may wish to amend subsection (b)(2)
22 to reflect the language of Maryland Rule 4-347, which establishes
23 procedures for hearings on alleged violations of probation. Maryland Rule
24 4-347 requires "[t]he court" to hold a hearing to determine whether a
25 violation has occurred. The rule also provides that "[w]henever practicable,
26 the hearing shall be held before the sentencing judge". See also §§
27 11-708(c)(2), 11-709(b)(2)(i) and (3)(i), 11-712(d)(2) and (3)(i), 11-714(b)(1)
28 and (3)(i) and (d)(2) and (3)(i), and 11-715(d)(1) and (g)(1)(i) of this subtitle
29 and accompanying Revisor's Notes. If the General Assembly amends
30 subsection (b)(2), a corresponding change should be made to subsection
31 (b)(3)(i) of this section, which refers to a recommendation of the
32 "sentencing judge".

33 In subsection (b)(3) of this section, the phrase "[s]ubject to paragraph (4) of
34 this subsection" is added to clarify that paragraph (4) imposes additional
35 eligibility criteria for the program. See also §§ 11-708(c)(3), 11-709(b)(3),
36 and 11-714(d)(3) of this subtitle.

37 In subsection (b)(3)(ii) of this section, the reference to charges pending in
38 any "jurisdiction" is substituted for the former reference to those that are
39 pending in any "city, county, or state" for consistency within this subtitle.
40 See, e.g., §§ 11-708(b)(2)(ii), 11-709(b)(3), 11-712(b)(4)(ii) and (d)(3)(ii),
41 11-714(d)(3)(ii), 11-715(d)(1)(ii), and 11-724(e)(2) of this subtitle. The
42 Correctional Services Article Review Committee notes, for consideration by
43 the General Assembly, that the reference to charges pending in any
44 "jurisdiction", which includes charges filed in federal court, may be broader

1 than the more ambiguous reference to charges pending in any "city, county,
2 or state".

3 In subsection (b)(5) of this section, the former term "housing" is deleted as
4 redundant of "lodging".

5 Also in subsection (b)(5) of this section, the former reference to an
6 individual who is "sentenced to home detention" is deleted as implied in
7 the reference to the individual's responsibility for the specified costs
8 "[w]hile participating in the home detention program".

9 In subsection (b)(6) of this section, the former reference to a fee "imposed
10 under subparagraph (i) of this paragraph" is deleted as implied in the
11 reference to the "fee".

12 The Correctional Services Article Review Committee notes, for
13 consideration by the General Assembly, that subsection (b)(8) of this
14 section refers to an inmate who "knowingly or willfully" violates a term or
15 a condition. The Committee is uncertain as to whether this reference is
16 redundant.

17 Defined term: "Inmate" § 1-101

18 11-724. WICOMICO COUNTY.

19 (A) "DIRECTOR" DEFINED.

20 IN THIS SECTION, "DIRECTOR" MEANS THE DIRECTOR OF THE WICOMICO
21 COUNTY DEPARTMENT OF CORRECTIONS.

22 (B) SCOPE OF SECTION.

23 THIS SECTION APPLIES ONLY IN WICOMICO COUNTY.

24 (C) AUTHORIZED PROGRAMS.

25 THE COUNTY COUNCIL MAY ESTABLISH UNDER THE COUNTY DEPARTMENT OF
26 CORRECTIONS PROGRAMS FOR:

27 (1) COMMUNITY SERVICE;

28 (2) HOME DETENTION;

29 (3) PRETRIAL RELEASE; AND

30 (4) WORK RELEASE.

31 (D) REGULATIONS.

32 THE COUNTY COUNCIL SHALL ADOPT REGULATIONS NECESSARY TO
33 IMPLEMENT EACH PROGRAM ESTABLISHED UNDER THIS SECTION.

1 (E) ELIGIBILITY FOR INMATE PARTICIPATION.

2 AT THE TIME OF SENTENCING OR AT ANY TIME DURING AN INDIVIDUAL'S
3 CONFINEMENT, THE COURT MAY ALLOW THE INDIVIDUAL TO PARTICIPATE IN ANY
4 PROGRAM ESTABLISHED UNDER THIS SECTION IF THE INDIVIDUAL:

5 (1) IS SENTENCED TO THE CUSTODY OF THE DIRECTOR; AND

6 (2) HAS NO OTHER CHARGES PENDING IN ANY JURISDICTION.

7 (F) PRIVILEGES OF PARTICIPATING INMATE.

8 AN INMATE DESIGNATED TO PARTICIPATE IN A PROGRAM SPECIFIED UNDER
9 SUBSECTION (C) OF THIS SECTION MAY LEAVE THE DETENTION CENTER TO:

10 (1) CONTINUE REGULAR EMPLOYMENT; OR

11 (2) SEEK NEW EMPLOYMENT.

12 (G) COLLECTION AND DISTRIBUTION OF WORK RELEASE INCOME.

13 (1) THE DIRECTOR OR DIRECTOR'S DESIGNEE, SHALL COLLECT THE
14 EARNINGS OF AN INMATE DESIGNATED TO PARTICIPATE IN A WORK RELEASE
15 PROGRAM, LESS ANY PAYROLL DEDUCTION REQUIRED BY LAW.

16 (2) FROM THE EARNINGS OF THE INMATE, THE DIRECTOR SHALL
17 DEDUCT AND DISBURSE AN AMOUNT:

18 (I) THE DIRECTOR DETERMINES TO BE A REASONABLE COST FOR
19 PROVIDING FOOD, LODGING, AND CLOTHING FOR THE INMATE;

20 (II) THE COUNTY ACTUALLY INCURS FOR NECESSARY FOOD,
21 TRAVEL, AND OTHER EXPENSES INCIDENTAL TO THE INMATE'S PARTICIPATION IN
22 THE PROGRAM;

23 (III) A COURT IMPOSES FOR A FINE, COST, OR RESTITUTION;

24 (IV) THE INMATE IS LEGALLY OBLIGATED TO PAY, OR REASONABLY
25 DESIRES TO PAY, FOR SUPPORT OF A DEPENDENT; AND

26 (V) A COURT ORDERS THE INMATE TO REPAY TO THE STATE OR TO
27 THE COUNTY FOR THE SERVICES OF AN ATTORNEY APPOINTED BY A COURT.

28 (3) THE DIRECTOR SHALL:

29 (I) CREDIT TO THE INMATE'S ACCOUNT ANY REMAINING BALANCE;
30 AND

31 (II) DISPOSE OF THE BALANCE IN THE INMATE'S ACCOUNT AS THE
32 INMATE REASONABLY REQUESTS AND AS THE DIRECTOR APPROVES.

1 (H) VIOLATION OF PROGRAM CONDITIONS.

2 (1) IF AN INMATE VIOLATES A TRUST OR A CONDITION THAT A COURT
3 OR THE COUNTY DEPARTMENT OF CORRECTIONS HAS ESTABLISHED FOR
4 PARTICIPATION IN A PROGRAM SPECIFIED IN SUBSECTION (C) OF THIS SECTION, THE
5 INMATE IS SUBJECT TO:

6 (I) REMOVAL FROM THE PROGRAM; AND

7 (II) CANCELLATION OF ANY EARNED DIMINUTION OF THE
8 INMATE'S TERM OF CONFINEMENT.

9 (2) THE FAILURE OF AN INMATE TO COMPLY WITH THE TERMS OF THE
10 INMATE'S AUTHORIZATION FOR LEAVE IS A VIOLATION OF ARTICLE 27, § 139 OF THE
11 CODE.

12 (3) IF A CONDITION THAT A COURT IMPOSES ON AN INMATE IS
13 INCONSISTENT WITH A REGULATION ADOPTED UNDER THIS SECTION, THE
14 CONDITION IMPOSED BY THE COURT CONTROLS AS TO THAT INMATE.

15 (4) IF AN INMATE VIOLATES A TRUST OR A CONDITION THAT A COURT
16 OR THE COUNTY DEPARTMENT OF CORRECTIONS ESTABLISHES, THE COUNTY
17 DEPARTMENT OF CORRECTIONS SHALL NOTIFY THE SENTENCING COURT IN
18 WRITING OF THE VIOLATION.

19 (I) COMPASSIONATE LEAVE.

20 (1) THE DIRECTOR OR THE DIRECTOR'S DESIGNEE MAY AUTHORIZE
21 COMPASSIONATE LEAVE UNDER THIS SUBSECTION FOR ANY INMATE COMMITTED TO
22 THE COUNTY DEPARTMENT OF CORRECTIONS:

23 (I) TO VISIT A SERIOUSLY ILL MEMBER OF THE INMATE'S
24 IMMEDIATE FAMILY; OR

25 (II) TO ATTEND THE VIEWING OR FUNERAL OF A MEMBER OF THE
26 INMATE'S IMMEDIATE FAMILY.

27 (2) AN INMATE WHO VIOLATES THE TERMS OF AN AUTHORIZATION FOR
28 COMPASSIONATE LEAVE IS SUBJECT TO THE SANCTIONS SPECIFIED IN SUBSECTION
29 (H)(1) AND (2) OF THIS SECTION.

30 (3) AN INMATE WHO IS GRANTED COMPASSIONATE LEAVE UNDER THIS
31 SUBSECTION MAY BE REQUIRED TO REIMBURSE THE DEPARTMENT FOR ANY
32 EXPENSES THAT THE COUNTY DEPARTMENT OF CORRECTIONS INCURS IN GRANTING
33 THE LEAVE.

34 (4) THE DIRECTOR SHALL ADOPT REGULATIONS NECESSARY TO CARRY
35 OUT THIS SUBSECTION.

1 REVISOR'S NOTE: Subsection (a) of this section is new language added to avoid
2 repetition of the full title of the "Director of the Wicomico County
3 Department of Corrections".

4 Subsection (b) of this section is new language added to clarify that this
5 section applies only in Wicomico County.

6 Subsections (c) through (i) of this section are new language derived without
7 substantive change from former Art. 27, § 645-II.

8 In subsection (e) of this section, the reference to "confinement" is
9 substituted for the former reference to "incarceration" for consistency
10 throughout this article. See General Revisor's Note to this article.

11 In subsection (f) of this section, the phrase "may leave" is substituted for
12 the former phrase "may be granted the privilege of leaving" for brevity.

13 In subsection (f)(1) of this section, the former reference to an "individual's"
14 regular employment is deleted as implied in the reference to "regular
15 employment".

16 In subsection (g)(1) of this section, the former reference to "surrender[ing]"
17 earnings is deleted as included in the reference to "collect[ing]" earnings.

18 In subsection (g)(2)(iii) of this section, the reference to a fine, cost, "or"
19 restitution is substituted for the former reference to fines, costs, "and"
20 restitutions to distinguish each of these different forms of judicially
21 imposed payments and to avoid any implication under former Art. 27, §
22 645-II(d)(2)(iii) that a deduction from the income of an individual could
23 only be made if the individual were legally obligated to pay all three types
24 of payments in a particular case.

25 The Correctional Services Article Review Committee notes, for
26 consideration by the General Assembly, that subsection (g)(2)(v) of this
27 section is silent as to whether from the earnings of an inmate in the
28 program, the Public Defender will be repaid for services provided to the
29 inmate. Compare §§ 11-703(d)(4)(ii)6 and 11-705(i)(2)(v) of this subtitle.
30 The General Assembly may wish to amend subsection (g)(2)(v) to require
31 that the warden deduct and disburse, from the earnings of an inmate, any
32 amount that the inmate was ordered to pay under Art. 27A, § 7 for services
33 rendered by the Public Defender.

34 The Correctional Services Article Review Committee also notes, for
35 consideration by the General Assembly, that subsection (g) of this section,
36 which sets forth rules governing the disposition of an inmate's earnings, is
37 one of many provisions in this article that relates to this subject. However,
38 there are significant inconsistencies throughout this article in the
39 provisions that govern the disposition of an inmate's earnings in different
40 contexts. See, e.g., §§ 3-804, 3-807(e)(1), 9-504(d), 9-512(b), 11-319(b),
41 11-407(b), 11-604, 11-703(d)(4), 11-704(d), 11-705(i), 11-706(b)(5),

1 11-707(b), 11-708(b)(7), 11-711(g), 11-712(c)(5), 11-714(c)(4), 11-715(e),
2 11-716(g), 11-717(e), 11-718(e), 11-719(b), 11-722(b), and 11-725(b) of
3 this article and accompanying Revisor's Notes. The General Assembly may
4 wish to examine all of the relevant provisions and determine whether they
5 should be changed to reflect a more consistent policy in this area.

6 In subsection (h)(1) of this section, the reference to "establish[ing]" a trust
7 or condition is substituted for the former reference to "prescrib[ing]" a
8 trust or condition for stylistic consistency throughout this article.

9 The Correctional Services Article Review Committee notes, for
10 consideration by the General Assembly, that subsection (h)(1)(ii) allows an
11 inmate's diminution credits to be cancelled without expressly requiring a
12 hearing. The General Assembly may wish to clarify whether a hearing is
13 required in this situation. See, e.g., § 11-703(d)(5)(ii) of this subtitle.

14 The Correctional Services Article Review Committee also notes, for
15 consideration by the General Assembly, that subsection (h)(2) of this
16 section is one of many provisions in this article that relates to inmates who
17 escape while legitimately outside the confines of a correctional facility
18 (e.g., while on work release, home detention, pretrial release, weekend
19 leave, compassionate leave, family leave, etc.). For a discussion of the
20 Committee's perspective on these provisions, see § 3-305(c) of this article
21 and accompanying Revisor's Note.

22 In subsection (h)(4) of this section, the reference to a trust or condition
23 "that a court or the County Department of Corrections establishes" is
24 added to state expressly that which was only implied under the former law.

25 Also in subsection (h)(4) of this section, the reference to the duty of the
26 Department to notify the sentencing court in writing "of the violation" is
27 added to state specifically the subject of the Department's notice.

28 Defined terms: "Court" § 11-701

29 "Inmate" § 1-101

30 11-725. WORCESTER COUNTY.

31 (A) SCOPE OF SECTION.

32 THIS SECTION APPLIES ONLY IN WORCESTER COUNTY.

33 (B) INMATE PAYMENTS.

34 WHILE CONFINED IN THE WORCESTER COUNTY JAIL, AN INMATE EMPLOYED
35 UNDER § 11-602 OF THIS TITLE SHALL PAY:

36 (1) COURT-ORDERED PAYMENTS FOR RESTITUTION; AND

37 (2) THE COST OF THE FOOD, LODGING, AND CLOTHING OF THE INMATE.

1 (C) DUTIES OF COUNTY COMMISSIONERS.

2 THE COUNTY COMMISSIONERS SHALL:

3 (1) ESTABLISH THE PER DIEM RATE FOR THE FOOD, LODGING, AND
4 CLOTHING OF AN INMATE; AND

5 (2) DESIGNATE AN AGENT TO COLLECT THE COSTS SPECIFIED IN THIS
6 SECTION.

7 REVISOR'S NOTE: Subsection (a) of this section is new language added to
8 clarify that this section applies only in Worcester County.

9 Subsections (b) and (c) of this section are new language derived without
10 substantive change from former Art. 27, § 645AA, as it applied to
11 Worcester County.

12 In subsection (b) of this section, the reference to "confined in" is
13 substituted for the former reference to "incarcerated" for consistency
14 throughout this article. See General Revisor's Note to this article.

15 In subsection (b)(2) of this section, the phrase "while in the jail", which
16 formerly modified the reference to "the cost of their own food, lodging, and
17 clothing", is deleted as unnecessary in light of the reference in the
18 introductory language of this subsection to an inmate "[w]hile confined in
19 the Worcester County Jail".

20 The Correctional Services Article Review Committee notes, for
21 consideration by the General Assembly, that subsection (b) of this section
22 sets forth rules governing the disposition of an inmate's earnings. The
23 Committee further notes that there are significant inconsistencies
24 throughout this article in statutory provisions governing the disposition of
25 an inmate's earnings in different contexts. See, e.g., §§ 3-804, 3-807(e)(1),
26 9-504(d), 9-512(b), 11-319(b), 11-407(b), 11-604, 11-703(d)(4), 11-704(d),
27 11-705(i), 11-706(b)(5), 11-707(b), 11-708(b)(7), 11-711(g), 11-712(c)(5),
28 11-714(c)(4), 11-715(e), 11-716(g), 11-717(e), 11-718(e), 11-719(b),
29 11-722(b), and 11-724(g) of this article and accompanying Revisor's Notes.
30 The General Assembly may wish to examine all of the relevant provisions
31 and determine whether they should be changed to reflect a more consistent
32 policy in this area.

33 In the introductory language of subsection (c) of this section, the phrase
34 "[i]n their respective counties", which formerly modified the reference to
35 the duties of the County Commissioners to "[e]stablish the per diem rate"
36 and "[d]esignate an agent", is deleted as unnecessary since this section
37 applies only in Worcester County. See § 11-706 of this subtitle for the
38 revision of former Art. 27, § 645AA, as it applied to Caroline County.

39 In subsection (c)(1) of this section, the reference to "an inmate" is added to
40 state expressly that which was only implied in the former law.

1 Defined terms: "Court" § 11-701

2 "Inmate" § 1-101

3 GENERAL REVISOR'S NOTE TO SUBTITLE:

4 The Correctional Services Article Review Committee notes, for consideration by
5 the General Assembly, that throughout this subtitle, references to a "court" have been
6 substituted for former references to a "judge" to clarify that the source law is referring
7 to a power or duty of the court rather than power or duty of an individual judge. No
8 substantive changes are intended.

9 SUBTITLE 8. MISCELLANEOUS.

10 11-801. WEEKEND INMATES.

11 (A) "WEEKEND INMATE" DEFINED.

12 IN THIS SECTION, "WEEKEND INMATE" MEANS AN INMATE SENTENCED TO A
13 LOCAL CORRECTIONAL FACILITY FOR NONCONSECUTIVE PERIODS OF 48 HOURS OR
14 LESS PER WEEK.

15 (B) AUTHORITY OF COUNTY TO IMPOSE FEE.

16 THE GOVERNING BODY OF A COUNTY MAY IMPOSE ON AND COLLECT FROM A
17 WEEKEND INMATE A REASONABLE FEE IN AN AMOUNT NOT TO EXCEED THE
18 AVERAGE COST OF PROVIDING FOOD, LODGING, AND CLOTHING FOR AN INMATE FOR
19 THE TIME THE INMATE IS CONFINED IN THE LOCAL CORRECTIONAL FACILITY.

20 (C) PROCEDURES.

21 IF THE GOVERNING BODY OF A COUNTY IMPOSES A FEE UNDER THIS SECTION,
22 THE GOVERNING BODY SHALL ADOPT STANDARD PROCEDURES TO IMPLEMENT THIS
23 SECTION, INCLUDING A PROCEDURE FOR THE WAIVER OF A PART OR ALL OF THE FEE
24 BASED ON THE ABILITY OF AN INMATE TO PAY THE FEE.

25 REVISOR'S NOTE: This section is new language derived without substantive
26 change from former Art. 27, § 645GG, except as it related to the definition
27 of "[l]ocal detention center".

28 In subsection (b) of this section, the phrase "for the time the inmate is
29 confined in the local correctional facility" is added to state expressly that
30 which was only implied in the former law, *i.e.*, the fee should reflect "the
31 average cost of providing food, lodging, and clothing for an inmate" for the
32 period in which the inmate is confined.

33 In subsection (c) of this section, the word "imposes" is substituted for the
34 former phrase "decides to impose" for brevity.

35 Defined terms: "County" § 1-101

36 "Inmate" § 1-101

1 "Local correctional facility" § 1-101

2 11-802. AUTHORITY OF LOCAL CORRECTIONAL OFFICER TO MAKE ARRESTS.

3 (A) DESIGNATION.

4 SUBJECT TO SUBSECTION (B) OF THIS SECTION, THE MANAGING OFFICIAL OF A
5 LOCAL CORRECTIONAL FACILITY MAY DESIGNATE CORRECTIONAL OFFICERS
6 EMPLOYED BY THE LOCAL CORRECTIONAL FACILITY TO HAVE THE POWER TO MAKE
7 ARRESTS AS AUTHORIZED BY ARTICLE 27, § 594B(R) OF THE CODE.

8 (B) QUALIFICATIONS AND TRAINING.

9 CORRECTIONAL OFFICERS DESIGNATED BY A MANAGING OFFICIAL TO MAKE
10 ARRESTS AS AUTHORIZED UNDER ARTICLE 27, § 594B(R) OF THE CODE SHALL MEET
11 THE MINIMUM QUALIFICATIONS AND SATISFACTORILY COMPLETE THE TRAINING
12 REQUIRED BY THE MARYLAND POLICE TRAINING COMMISSION.

13 REVISOR'S NOTE: This section is new language derived without substantive
14 change from former Art. 27, § 684B.

15 In subsection (b) of this section, the reference to correctional officers
16 "designated by a managing official" is added to state expressly that which
17 was only implied in the former reference to "correctional officers".

18 Also in subsection (b) of this section, the reference to making arrests as
19 "authorized" is substituted for the former reference to correctional officers
20 who are "empowered" to make arrests for consistency with subsection (a) of
21 this section.

22 Defined terms: "Local correctional facility" § 1-101

23 "Managing official" § 1-101

24 11-803. RETAKE WARRANT.

25 (A) DESIGNATION.

26 THE MANAGING OFFICIAL OF A LOCAL CORRECTIONAL FACILITY OR THE
27 MANAGING OFFICIAL'S DESIGNEE MAY ISSUE A RETAKE WARRANT FOR THE
28 APPREHENSION AND RETURN OF AN ESCAPEE.

29 (B) COPY TO STATE'S ATTORNEY.

30 IF A MANAGING OFFICIAL OR MANAGING OFFICIAL'S DESIGNEE ISSUES A
31 RETAKE WARRANT UNDER SUBSECTION (A) OF THIS SECTION, THE MANAGING
32 OFFICIAL OR DESIGNEE SHALL FORWARD A COPY OF THE RETAKE WARRANT TO THE
33 STATE'S ATTORNEY FOR THE COUNTY IN WHICH THE ESCAPE OCCURRED.

34 (C) EXECUTION OF WARRANT.

1 A SHERIFF OR POLICE OFFICER WHO IS AUTHORIZED TO SERVE CRIMINAL
2 PROCESS AND TO WHOM A WARRANT ISSUED UNDER THIS SECTION IS DELIVERED
3 SHALL EXECUTE THE WARRANT IN ACCORDANCE WITH THE DIRECTIONS IN THE
4 WARRANT.

5 (D) NOTIFICATION OF ARREST.

6 A SHERIFF OR POLICE OFFICER WHO MAKES AN ARREST UNDER THIS SECTION
7 SHALL PROMPTLY NOTIFY THE MANAGING OFFICIAL, OR MANAGING OFFICIAL'S
8 DESIGNEE, WHO ISSUED THE WARRANT OF THE ARREST.

9 REVISOR'S NOTE: This section is new language derived without substantive
10 change from former Art. 27, § 700-I, except as it related to the definitions
11 of "administrator" and "local or regional detention facility".

12 In subsection (d) of this section, the reference to "the managing official's
13 designee" is added for consistency with subsection (a) of this section.

14 Former Art. 27, § 700-I(a)(1) is deleted as unnecessary because former Art.
15 27, § 700-I(a)(2) and (3) are revised, respectively, in § 1-101(i) and (j) of
16 this article.

17 Defined terms: "County" § 1-101

18 "Local correctional facility" § 1-101

19 "Managing official" § 1-101

20 GENERAL REVISOR'S NOTE TO ARTICLE:

21 The Department of Legislative Services is charged with revising the law in a
22 clear, concise, and organized manner, without changing the effect of the law. One
23 precept of revision has been that, once something is said, it should be said in the same
24 way every time. To that end, the Correctional Services Article Review Committee
25 conformed the language and organization of this article to that of previously enacted
26 revised articles to the extent possible.

27 Throughout this article, as in other revised articles, the word "regulations" is
28 substituted for former references to "rules and regulations" to distinguish, to the
29 extent possible, between regulations of executive units and rules of judicial or
30 legislative units and to establish consistency in the use of the words. This substitution
31 conforms to the practice of the Division of State Documents.

32 Also throughout this article, for consistency and to avoid unnecessary confusion,
33 the singular verb "adopt" is used in relation to rules or regulations, and verbs such as
34 "prescribe" and "promulgate" are deleted. The procedures to be followed in adopting
35 regulations are set forth in Title 10, Subtitle 1 of the State Government Article.

36 Also throughout this article, for consistency, references to adopting regulations
37 to "carry out" particular provisions of this article are substituted for former references
38 to adopting regulations to "administer", "implement", "accomplish the purpose of", or
39 "accomplish the objectives of" the relevant provisions.

1 Also throughout this article, the word "law" is substituted for former phrases
2 such as "law or regulation" because the broad reference to a "law" includes a
3 "regulation" adopted under the authority of a law. See, e.g., Maryland Port
4 Administration v. Brawner Contracting Co., 303 Md. 44, 60 (1985).

5 Also throughout this article, the term "unit" is substituted for former references
6 such as "agency", "department", "administration", "commission", and "office", except
7 when a former reference indicated a specific entity or was included as part of a
8 defined term. The term "unit" is used as the general term for an organization in the
9 State government because it is broad enough to include all such entities.

10 Also throughout this article, references to current units and positions are
11 substituted for obsolete references to entities and positions that have been abolished
12 or have otherwise ceased to exist.

13 The term "correctional facility" is defined broadly in Title 1 of this article and,
14 for consistency, is used throughout the article as a substitute for former references
15 such as "reformatory", "jail", "prison", "penal institution", "institution", "lock-up", and
16 "detention center". The term "correctional facility" includes former references to more
17 specific terms such as "community correctional facility", "work-release facility", and
18 "prerelease facility".

19 The terms "State correctional facility" and "local correctional facility" are also
20 defined in Title 1 of this article. In some provisions of this article, for brevity, the term
21 "State and local correctional facilities" is used when referring to both "State
22 correctional facilities" and "local correctional facilities".

23 Also throughout this article, for brevity and consistency, references to
24 correctional facilities "in" the Division of Correction are substituted for former
25 references to correctional facilities "under the jurisdiction of", "under the control of",
26 or "under" the Division of Correction. Any correctional facility that is under the
27 jurisdiction or control of the Division of Correction is "in" the Division of Correction.

28 Also throughout this article, references to a "term of imprisonment" are used to
29 refer to a penalty that is imposed on an individual as a part of a criminal sentence
30 after the individual has been convicted of a crime. In this way, the Correctional
31 Services Article is consistent with most penalty provisions in Article 27 (Crimes and
32 Punishments) of the Code, which typically impose a "term of imprisonment" rather
33 than a "term of confinement". However, for clarity and consistency, references to a
34 "term of confinement" are used throughout this article to refer to an individual's
35 complete obligation of confinement in a correctional facility (i.e., all sentences
36 combined minus any applicable diminution credits).

37 Also throughout this article, for consistency, the terms "confined" and
38 "confinement" are substituted for former references such as "incarcerated",
39 "incarceration", "detained", "detention", "imprisoned", and "imprisonment" when
40 referring to an inmate who is being held in a correctional facility.

1 Also throughout this article, for accuracy and consistency, the term "crime" is
2 substituted for former references to an "offense" when referring to offenses that are
3 misdemeanors or felonies under state or federal law.

4 Also throughout this article, for accuracy, references to "compensation" are
5 substituted for former references to "salary" when referring to remuneration that is
6 provided to an individual in the State budget. The term "compensation" is substituted
7 for the term "salary" to include nonsalary benefits that are provided in the State
8 budget (e.g., retirement and health care benefits). These substitutions do not make
9 substantive changes in law because references to "compensation" in these contexts
10 are always restricted by the phrase "as provided in the State budget".

11 Also throughout this article, for clarity and consistency, references to "the
12 public" or "members of the public" are substituted for former references such as
13 "Maryland's citizens", "the citizens of this State", and "the State's citizens" because
14 the meaning of the word "citizen" in these contexts is unclear.

15 Also throughout this article, references to the "chairperson" and "vice
16 chairperson" are substituted for former references to the "chairman" and "vice
17 chairman", respectively, because § 2-1238 of the State Government Article requires,
18 to the extent practicable, the use of words that are neutral as to gender.

19 Also throughout this article, for consistency with other revised articles of the
20 Code, the requirement that a document be "verified" is substituted for former
21 requirements that a document be "signed and sworn to" or be "sworn to". See
22 generally CA §§ 1-301(a)(4) and (b)(2), 1-302, 2-513(b), 4-404(b), 5-309(b)(2), and
23 6-416(b), EN §§ 1-201, 5-513, 14-118, and 15-523(a), FI § 1-202, HG § 1-201, HO §
24 1-201, and IN § 8-438(b). The meaning of the requirement that a document be
25 "verified" is set forth in § 1-201 of this article.

26 In some instances, the staff of the Department of Legislative Services may
27 create "Special Revisor's Notes" to reflect the substantive effect of legislation enacted
28 during the 1999 Session on some provisions of this article.

29 SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland
30 read as follows:

31 **Article 10 - Legal Officials**

32 40A. RESUME OF FACTS AND EVIDENCE.

33 THE STATE'S ATTORNEY FOR A COUNTY SHALL PREPARE AND SUBMIT TO THE
34 DIVISION OF PAROLE AND PROBATION AND THE DIVISION OF CORRECTION A
35 RESUME OF THE FACTS AND EVIDENCE PRESENTED IN EACH CASE TRIED IN THE
36 CIRCUIT COURT FOR THE COUNTY IN WHICH:

37 (1) THE DEFENDANT WAS SENTENCED TO IMPRISONMENT FOR 18
38 MONTHS OR MORE; AND

1 (2) THE DIVISION DID NOT PREPARE A PRESENTENCE INVESTIGATION
2 REPORT.

3 REVISOR'S NOTE: Chapter _____, Acts of 1999, which enacted the Correctional
4 Services Article, also enacted this section, which is new language derived
5 without substantive change from former Art. 41, § 4-610, as it required
6 State's Attorneys to prepare certain reports.

7 The balance of former Art. 41, § 4-610 is revised as § 6-113 of the
8 Correctional Services Article.

9 In item (1) of this section, the former reference to each case "wherein a
10 verdict of guilty was found" is deleted as implicit in the reference to each
11 case "in which ... the defendant was sentenced to imprisonment for 18
12 months or more".

13 The Correctional Services Article Review Committee notes, for
14 consideration by the General Assembly, that the various State's Attorneys,
15 in practice, do not generally prepare the reports required by this section.

16 **Article 27 - Crimes and Punishments**

17 414A. CLERK OF THE COURT; DUTIES.

18 (A) IN GENERAL.

19 IMMEDIATELY AFTER THE IMPOSITION OF A SENTENCE OF DEATH:

20 (1) THE CLERK OF THE COURT IN WHICH SENTENCE IS IMPOSED, IF
21 DIFFERENT FROM THE COURT WHERE THE INDICTMENT OR INFORMATION WAS
22 FILED, SHALL CERTIFY THE PROCEEDINGS TO THE CLERK OF THE COURT WHERE
23 THE INDICTMENT OR INFORMATION WAS FILED; AND

24 (2) THE CLERK OF THE COURT WHERE THE INDICTMENT OR
25 INFORMATION WAS FILED SHALL COPY THE DOCKET ENTRIES IN THE INMATE'S
26 CASE, SIGN THE COPIES, AND DELIVER THEM TO THE GOVERNOR.

27 (B) DOCKET ENTRIES.

28 THE DOCKET ENTRIES SHALL SHOW FULLY THE SENTENCE OF THE COURT AND
29 THE DATE THAT THE SENTENCE WAS ENTERED.

30 REVISOR'S NOTE: Chapter _____, Acts of 1999, which enacted the Correctional
31 Services Article, also enacted this section, which is new language derived
32 without substantive change from former Art. 27, § 74 as it related to the
33 duties of the clerk of the court.

34 The balance of former Art. 27, § 74 is revised in § 3-901(a) and (b) of the
35 Correctional Services Article.

1 In the introductory language of subsection (a) of this section, the
2 requirement that the specified action be taken immediately after a
3 "sentence of death" is substituted for the former requirement that the
4 specified action be taken immediately after "conviction" for consistency
5 with subsection (b) of this section, which requires information relating to
6 the "sentence of the court".

7 In subsection (a)(1) and (2) of this section, the references to an indictment
8 "or information" are added because a death penalty case can originate by
9 either an indictment or information.

10 In subsection (a)(1) of this section, the former reference to the clerk of the
11 court in the county from which a "case [was] removed" is deleted as
12 unnecessary in light of the synonymous reference to the clerk of the court
13 in the county in which the indictment or information was filed.

14 In subsection (a)(2) of this section, the former reference to the Governor "of
15 the State of Maryland" is deleted as implicit in the reference to the
16 "Governor".

17 **Article - State Finance and Procurement**

18 **SUBTITLE 5. PAYMENTS.**

19 10-501. PAYMENT TO INDIVIDUALS CONVICTED, SENTENCED, AND CONFINED IN
20 ERROR.

21 (A) IN GENERAL.

22 (1) SUBJECT TO SUBSECTION (B) OF THIS SECTION, THE BOARD OF
23 PUBLIC WORKS MAY GRANT TO AN INDIVIDUAL ERRONEOUSLY CONVICTED,
24 SENTENCED, AND CONFINED UNDER STATE LAW FOR A CRIME THE INDIVIDUAL DID
25 NOT COMMIT AN AMOUNT COMMENSURATE WITH THE ACTUAL DAMAGES
26 SUSTAINED BY THE INDIVIDUAL DUE TO THE CONFINEMENT.

27 (2) IN MAKING A GRANT UNDER PARAGRAPH (1) OF THIS SUBSECTION,
28 THE BOARD OF PUBLIC WORKS SHALL USE MONEY IN THE GENERAL EMERGENCY
29 FUND OR MONEY THAT THE GOVERNOR PROVIDES IN THE ANNUAL BUDGET.

30 (B) ELIGIBILITY.

31 AN INDIVIDUAL IS ELIGIBLE FOR A GRANT UNDER SUBSECTION (A) OF THIS
32 SECTION ONLY IF THE INDIVIDUAL HAS RECEIVED FROM THE GOVERNOR A FULL
33 PARDON STATING THAT THE INDIVIDUAL'S CONVICTION HAS BEEN SHOWN
34 CONCLUSIVELY TO BE IN ERROR.

35 (C) PAYMENT OPTIONS.

36 THE BOARD OF PUBLIC WORKS MAY PAY THE GRANT DETERMINED UNDER
37 SUBSECTION (A) OF THIS SECTION IN A LUMP SUM OR IN INSTALLMENTS.

1 (D) PROHIBITED PAYMENTS.

2 (1) THE BOARD OF PUBLIC WORKS MAY NOT PAY ANY PART OF A GRANT
3 MADE UNDER THIS SECTION TO ANY INDIVIDUAL OTHER THAN THE PARDONED
4 INDIVIDUAL.

5 (2) (I) AN INDIVIDUAL MAY NOT PAY ANY PART OF A GRANT RECEIVED
6 UNDER THIS SECTION TO ANOTHER PERSON FOR SERVICES RENDERED IN
7 CONNECTION WITH THE COLLECTION OF THE GRANT.

8 (II) AN OBLIGATION INCURRED IN VIOLATION OF THIS PARAGRAPH
9 IS VOID.

10 (III) A PAYMENT MADE IN VIOLATION OF THIS PARAGRAPH SHALL
11 BE FORFEITED TO THE STATE.

12 (E) EFFECT OF SECTION.

13 THIS SECTION DOES NOT PROHIBIT AN INDIVIDUAL FROM CONTRACTING FOR
14 SERVICES TO:

15 (1) DETERMINE THE INDIVIDUAL'S INNOCENCE;

16 (2) OBTAIN A PARDON; OR

17 (3) OBTAIN THE INDIVIDUAL'S RELEASE FROM CONFINEMENT.

18 REVISOR'S NOTE: Chapter _____, Acts of 1999, which enacted the
19 Correctional Services Article, also enacted this section, which is new
20 language derived without substantive change from former Art. 78A, § 16A.

21 Throughout this section, the term "individual" is substituted for the former
22 term "person" because only a human being, and not the other types of
23 entities included in the defined term "person", can be falsely imprisoned.
24 See § 1-101 of this article for the definition of "person".

25 In subsections (a) and (c) of this section, the former references to
26 "discretion" are deleted as implicit in the word "may". Correspondingly, in
27 subsection (c) of this section, the former phrase "as it deems appropriate" is
28 deleted.

29 In subsection (a) of this section, the former reference to confinement
30 "pursuant to the sentence imposed for such crime" is deleted as implicit in
31 the reference to "confinement".

32 In subsection (b) of this section, the former reference to the Governor "of
33 this State" is deleted as implicit in the reference to the "Governor".

34 Also in subsection (b) of this section, the reference to a pardon "stating that
35 the individual's conviction has been shown conclusively to be in error" is
36 substituted for the former reference to a pardon "in which it is made

1 known that the person so pardoned has been conclusively shown to have
2 been convicted in error" for brevity.

3 In subsection (e) of this section, the former reference to "validly"
4 contracting for services is deleted as implicit in the legal meaning of
5 "contract[ing]". Similarly, in subsection (e) of this section, the former
6 phrase "where otherwise permitted by law" is deleted as surplusage.

7 Defined term: "Person" § 1-101

8 SECTION 4. AND BE IT FURTHER ENACTED, That Section 4-105(a) of
9 Article 41 - Governor - Executive and Administrative Departments of the Annotated
10 Code of Maryland be repealed and reenacted, with amendments, and transferred to
11 the Session Laws, to read as follows:

12 REORGANIZATION OF DEPARTMENT OF CORRECTIONAL SERVICES AS DIVISION OF
13 CORRECTION

14 [4-105.] 1.

15 [(a) The Division of Correction is established and continued as the same
16 Department of Correctional Services hitherto existing. The Division of Correction
17 shall be part of the Department of Public Safety and Correctional Services.] The
18 Division of Correction shall have the powers, duties, responsibilities and functions
19 provided in the laws of this State for the Department of Correctional Services. All
20 references in [this] THE ANNOTATED Code, in any other laws of this State, or in
21 ordinances, resolutions, rules, regulations, legal actions, directives, or documents to
22 the Department of Correctional Services or the Department of Correction or the
23 Board of Correction, shall be deemed to mean the Division of Correction. From and
24 after July 1, 1970, all rights, powers, duties, obligations and functions heretofore
25 conferred upon or exercised by the Department of Correctional Services shall be
26 transferred to and be exercised by the Division of Correction, subject to the authority
27 of the Secretary of Public Safety and Correctional Services as set forth in [§§ 4-102,
28 4-103, and 4-104 of this article] THE CORRECTIONAL SERVICES ARTICLE or
29 elsewhere in [this] THE ANNOTATED Code.

30 REVISOR'S NOTE: This section formerly was Art. 41, § 4-105(a).

31 The first and second sentences of former Art. 41, § 4-105(a) are revised as
32 § 3-201 of the Correctional Services Article.

33 The remainder of former Art. 41, § 4-105(a) is not retained in the Code
34 because the contemplated reorganization and ensuing transfers have
35 taken place. However, it is transferred to the Session Laws to avoid any
36 inadvertent substantive effect that its repeal might have.

37 The only changes are in style.

38 SECTION 5. AND BE IT FURTHER ENACTED, That Section 4-105(b) of
39 Article 41 - Governor - Executive and Administrative Departments of the Annotated

1 Code of Maryland be repealed and reenacted, with amendments, and transferred to
2 the Session Laws, to read as follows:

3 REORGANIZATION OF DEPARTMENT OF PAROLE AND PROBATION AS DIVISION OF
4 PAROLE AND PROBATION

5 [4-105.] 1.

6 [(b)] The Division of Parole and Probation is established and continued as the
7 same Department of Parole and Probation hitherto existing. The Division of Parole
8 and Probation shall be part of the Department of Public Safety and Correctional
9 Services. The Division of Parole and Probation shall have the powers, duties,
10 responsibilities and functions provided in the laws of this State for the Department of
11 Parole and Probation. All references in this Code, in any other laws of this State, or in
12 ordinances, resolutions, rules, regulations, legal actions, directives, or documents to
13 the Department of Parole and Probation shall be deemed to mean the Division of
14 Parole and Probation. From and after July 1, 1970, all rights, powers, duties,
15 obligations and functions heretofore conferred upon or exercised by the Department of
16 Parole and Probation shall be transferred to and be exercised by the Division of
17 Parole and Probation subject to the authority of the Secretary of Public Safety and
18 Correctional Services as set forth in [§§ 4-102, 4-103, and 4-104 of this article] THE
19 CORRECTIONAL SERVICES ARTICLE or elsewhere in this Code.

20 REVISOR'S NOTE: This section formerly was Art. 41, § 4-105(b).

21 Former § 4-105(b) is not retained in the Code because it is apparently
22 obsolete. However, it is transferred to the Session Laws to avoid any
23 inadvertent substantive effect its repeal might have.

24 The only changes are in style.

25 SECTION 6. AND BE IT FURTHER ENACTED, That Section 4-1410(a) and
26 (b) of Article 41 - Governor - Executive and Administrative Departments of the
27 Annotated Code of Maryland be repealed and reenacted, with amendments, and
28 transferred to the Session Laws, to read as follows:

29 PERSONS COMMITTED TO THE CUSTODY OF THE BALTIMORE CITY JAIL

30 [4-1410.] 1.

31 (a) Any person committed to the custody of the Baltimore City Jail for any
32 purpose other than the service of a sentence, as of July 1, 1991 [is,] WAS, on that
33 date, committed to the custody of the Commissioner [OF PRETRIAL DETENTION AND
34 SERVICES].

35 (b) Any person committed to the custody of the Baltimore City Jail for service
36 of a sentence as of July 1, 1991 [is,] WAS, on that date, committed to the custody of
37 the Commissioner of Correction.

38 REVISOR'S NOTE: This section formerly was Art. 41, § 4-1410(a) and (b).

1 Former Art. 41, § 4-1410(a) and (b) related to the transfer of the custody of
2 inmates of the former Baltimore City Jail to the Commissioner of Pretrial
3 Detention and Services and the Commissioner of Correction. This
4 provision is not retained in the Code because it is apparently obsolete.
5 However, it is transferred to the Session Laws to avoid any inadvertent
6 substantive effect that its repeal might have.

7 The only changes are in style.

8 SECTION 7. AND BE IT FURTHER ENACTED, That Section(s) 4-1411
9 through 4-1413, inclusive, of Article 41 - Governor - Executive and Administrative
10 Departments of the Annotated Code of Maryland be repealed and reenacted, without
11 amendments, and transferred to the Session Laws, to read as follows:

12 TRANSFER OF BALTIMORE CITY JAIL TO STATE

13 [4-1411.] 1.

14 (a) On July 1, 1991 title to and possession of all records concerning inmates
15 housed as of that date at the Baltimore City Jail shall be transferred to the Warden of
16 the Baltimore City Detention Center or a designee.

17 (b) (1) Except as provided in subsection (a) of this section, all
18 administrative, financial, operational, inmate, and other records concerning the
19 Baltimore City Jail shall be preserved by the City of Baltimore for a period of 5 years,
20 or for such other period as may be agreed upon between the Commissioner and the
21 City of Baltimore.

22 (2) The records shall be made available, upon request, to any State
23 personnel who require the records in connection with the performance of their official
24 duties.

25 (3) The City of Baltimore will transfer possession of the records to the
26 Division of Pretrial Detention and Services, upon request.

27 (c) Any records transferred to the Division will be made available, upon
28 request, to city personnel who require the records in connection with the performance
29 of their official duties.

30 REVISOR'S NOTE: This section formerly was Art. 41, § 4-1411.

31 Former Art. 41, § 4-1411 related to the transfer of responsibilities from the
32 former Baltimore City Jail to the Baltimore City Detention Center and the
33 Division of Pretrial Detention and Services. This provision is not retained
34 in the Code because it is apparently obsolete. However, it is transferred to
35 the Session Laws to avoid any inadvertent substantive effect that its
36 repeal might have.

37 No changes are made.

1 [4-1412.] 2.

2 (a) Every officer and every employee of the Baltimore City Jail as of June 30,
3 1991 shall be terminated from city employment. Except as provided in this subtitle,
4 any earned or accrued benefit such as leave and seniority rights, which these
5 individuals have earned or accrued as of June 30, 1991 shall be the sole financial
6 responsibility of the City of Baltimore. None of these benefits or any other benefit is
7 an obligation of the State.

8 (b) (1) On July 1, 1991 the Division may employ, as it deems necessary, any
9 officers or employees of the Baltimore City Jail at the same salaries received on
10 January 31, 1991 or the salaries received at the time of employment, whichever are
11 greater, without further examination or qualification.

12 (2) For the purposes of paragraph (1) of this subsection, the Division
13 shall recognize employee salaries as of January 31, 1991 plus any salary increases
14 attributable to:

15 (i) Longevity and salary increments associated only with an
16 employee's anniversary date of employment;

17 (ii) Promotions prior to March 30, 1991; and

18 (iii) Promotions to fill vacancies.

19 (3) The salary increases specified in paragraph (2) of this subsection
20 shall be recognized only pursuant to Baltimore City personnel policies in effect on
21 January 31, 1991.

22 (4) If a classified service employee was employed by the State in
23 accordance with paragraph (1) of this subsection, beginning January 1, 1996, the
24 employee's years of service as an employee of Baltimore City shall be added to the
25 employee's years of service with the State for the purpose of determining:

26 (i) The annual leave accrual rate provided in § 9-302 of the State
27 Personnel and Pensions Article; and

28 (ii) Seniority under Title 11, Subtitle 2 of the State Personnel and
29 Pensions Article, relating to layoffs.

30 (c) Each position held by such persons shall be in the unclassified service and
31 such persons shall serve at the pleasure of the Secretary until such time, if any, as the
32 position is classified by the Department of Budget and Management, upon the
33 recommendation of the Secretary.

34 (d) On or before December 31, 1991, the Department of Personnel shall review
35 the positions at the Division and classify each position not excluded by law from the
36 classified service.

1 (e) Persons employed under subsection (b) of this section and holding
2 positions classified under subsection (d) of this section may continue to hold the newly
3 classified positions without further examination and shall have all the rights of the
4 class to which the positions are allocated.

5 (f) Beginning January 1, 1992, the creation and filling of all positions shall be
6 in accordance with the provisions of Title 6, Subtitle 4 of the State Personnel and
7 Pensions Article.

8 (g) The salary of the officers and employees of the Division shall be as set
9 forth in the State budget.

10 (h) It shall be the responsibility of the City of Baltimore to pay whatever
11 moneys are due upon termination of city employment as of June 30, 1991, to any
12 officer or employee of the Baltimore City Jail.

13 REVISOR'S NOTE: This section formerly was Art. 41, § 4-1412.

14 Former Art. 41, § 4-1412 related to the termination of employees of the
15 former Baltimore City Jail and the hiring of former employees of the
16 Baltimore City Jail by the Division of Pretrial Detention and Services. This
17 provision is not retained in the Code because of its limited and diminishing
18 applicability. However, it is transferred to the Session Laws to avoid any
19 inadvertent substantive effect that its repeal might have.

20 No changes are made.

21 [4-1413.] 3.

22 (a) (1) The Secretary, the Jail Board of the Baltimore City Jail, and the City
23 of Baltimore shall enter into an agreement effective July 1, 1991 for the purpose of
24 transferring all the rights, title, and interests of the property, assets, licenses, and
25 credits of the Baltimore City Jail or any property or other assets used or acquired for
26 the Baltimore City Correctional Facility to the Secretary, to be used for the Baltimore
27 City Detention Center, or as otherwise directed or authorized by the Secretary.

28 (2) The assets and property shall include, but are not limited to:

29 (i) The Jail Industries Building;

30 (ii) The Graves Street Work Release Center;

31 (iii) The Baltimore City Jail Administration Building;

32 (iv) 801 Fallsway Property (adjacent to the Baltimore City Jail); and

33 (v) The Baltimore City Complex: the Control Center, the Men's
34 Detention Center, the Main, North, and South Buildings, the Women's Detention
35 Center, the Power Plant, the Annex Building, the kitchen, the dining building, and
36 the Wyatt Building.

1 (3) Upon execution of the agreement as provided in paragraph (1) of this
2 subsection, the City of Baltimore and the Baltimore City Jail Board shall make, and
3 the Secretary shall accept, a conveyance of the real property, other property, assets,
4 licenses, credits, and rights which are the subject of the agreement.

5 (4) (i) In the Secretary's discretion, the Secretary may assume in
6 writing such liabilities and obligations of Baltimore City as the Secretary considers
7 necessary or useful.

8 (ii) Except as otherwise provided in subsection (b) of this section,
9 the Secretary may assume such liabilities or obligations only if the nature and terms
10 of the obligations or liabilities to be assumed are consistent with the laws and
11 regulations of the State.

12 (iii) No liability, contract, or obligation of Baltimore City is a
13 liability, contract, or obligation of the State of Maryland, unless such liability,
14 contract, or obligation is expressly assumed by the Secretary in writing.

15 (iv) Baltimore City shall indemnify and hold harmless the State,
16 the Department, and the Division, for any judgments, damages, liens, settlements,
17 consent decrees, and other costs, including attorney's fees, arising from the operations
18 of the Baltimore City Jail, for the actions of the Jail Board of the Baltimore City Jail,
19 or for the acts or omissions of their employees, officers, or agents which occurred on or
20 before June 30, 1991.

21 (v) On or after July 1, 1991, an officer and employee of the
22 Baltimore City Jail shall be covered by the Local Government Tort Claims Act for any
23 act or omission that occurred in connection with the performance of the officer's and
24 employee's duties on or before June 30, 1991.

25 (vi) On or after July 1, 1991, an officer and employee of the Division
26 of Pretrial Detention and Services shall be covered by the State Tort Claims Act for
27 any act or omission that occurred in connection with the performance of the officer's
28 and employee's duties on or after July 1, 1991.

29 (b) (1) Before July 1, 1991, the Secretary may in the Secretary's discretion,
30 assume by written agreement as assignee, any procurement and construction
31 contract entered into by or on behalf of the Baltimore City Jail prior to June 1, 1991.
32 The Secretary may assume such procurement and construction contracts without
33 regard to whether the contracts conform to the requirements of Division II of the
34 State Finance and Procurement Article and the regulations issued under that article
35 or any other provision of law.

36 (2) Before September 1, 1991, the Division may enter procurement and
37 construction contracts connected with operation of the Baltimore City Detention
38 Center without compliance with the requirements of Division II of the State Finance
39 and Procurement Article and the regulations issued under that article.

1 (3) After August 31, 1991, procurement by or on behalf of the Baltimore
2 City Detention Center shall be in accordance with Division II of the State Finance
3 and Procurement Article, and the regulations issued under that article.

4 (4) For purposes of this section, "procurement" and "procurement
5 contract" have the meanings stated in § 11-101 of the State Finance and Procurement
6 Article.

7 REVISOR'S NOTE: This section formerly was Art. 41, § 4-1413.

8 Former Art. 41, § 4-1413 related to the transfer of the assets and property
9 of the former Baltimore City Jail to the State. This provision is not
10 retained in the Code because of its limited and diminishing applicability.
11 However, it is transferred to the Session Laws to avoid any inadvertent
12 substantive effect that its repeal might have.

13 No changes are made.

14 SECTION 8. AND BE IT FURTHER ENACTED, That this Act is not intended to
15 change the status as of the effective date of this Act of any employee, official, or
16 position from the State Personnel Management System or any other personnel
17 system to a different personnel system, from the unclassified service to the classified
18 service, from the classified service to the unclassified service, or otherwise from one
19 employment status to a different employment status.

20 SECTION 9. AND BE IT FURTHER ENACTED, That if a revised
21 incentive-based compensation plan established jointly by the Secretary of Personnel
22 and the Secretary of Public Safety and Correctional Services for employees at the
23 State Use Industries exists on the effective date of this Act, the Secretary of Public
24 Safety and Correctional Services may submit the revised plan as a part of the budget
25 request for the State Use Industries for each fiscal year. If approved as part of the
26 budget, the revised incentive-based compensation plan continues in effect until
27 changed by law.

28 SECTION 10. AND BE IT FURTHER ENACTED, That the Revisor's Notes,
29 Special Revisor's Notes, General Revisor's Notes, and catchlines contained in this Act
30 are not law and may not be considered to have been enacted as a part of this Act.

31 SECTION 11. AND BE IT FURTHER ENACTED, That nothing in this Act
32 affects the term of office of an appointed or elected member of any commission, office,
33 department, agency, or other unit. An individual who is a member of a unit on the
34 effective date of this Act shall remain a member for the balance of the term to which
35 appointed or elected, unless the member sooner dies, resigns, or is removed under
36 provisions of law.

37 SECTION 12. AND BE IT FURTHER ENACTED, That, except as expressly
38 provided to the contrary in this Act, any transaction or employment status affected by
39 or flowing from any change of nomenclature or any statute amended, repealed, or
40 transferred by this Act and validly entered into or existing before the effective date of
41 this Act and every right, duty, or interest flowing from a statute amended, repealed,

1 or transferred by this Act remains valid after the effective date of this Act and may be
2 terminated, completed, consummated, or enforced as required or allowed by any
3 statute amended, repealed, or transferred by this Act as though the repeal,
4 amendment, or transfer had not occurred. If a change in nomenclature involves a
5 change in name or designation of any State unit, the successor unit shall be
6 considered in all respects as having the powers and obligations granted the former
7 unit.

8 SECTION 13. AND BE IT FURTHER ENACTED, That the continuity of every
9 commission, office, department, agency, or other unit is retained. The personnel,
10 records, files, furniture, fixtures, and other properties and all appropriations, credits,
11 assets, liabilities, and obligations of each retained unit are continued as the
12 personnel, records, files, furniture, fixtures, properties, appropriations, credits,
13 assets, liabilities, and obligations of the unit under the laws enacted by this Act.

14 SECTION 14. AND BE IT FURTHER ENACTED, That, except as expressly
15 provided to the contrary in this Act, any person licensed, registered, certified, or
16 issued a permit or certificate by any commission, office, department, agency, or other
17 unit established or continued by any statute amended, repealed, or transferred by
18 this Act is considered for all purposes to be licensed, registered, certified, or issued a
19 permit or certificate by the appropriate unit continued under this Act for the duration
20 of the term for which the license, registration, certification, or permit was issued, and
21 may renew that authorization in accordance with the appropriate renewal provisions
22 of this Act.

23 SECTION 15. AND BE IT FURTHER ENACTED, That, subject to the approval
24 of the Executive Director of the Department of Legislative Services, the publishers of
25 the Annotated Code of Maryland shall propose the correction of cross-references that
26 are rendered incorrect by this Act.

27 SECTION 16. AND BE IT FURTHER ENACTED, That this Act shall take effect
28 October 1, 1999.