

HOUSE BILL 122

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SB 65/98 - JPR

1999 Regular Session  
9r0069

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

Introduced and read first time: January 27, 1999

Assigned to: Judiciary

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A BILL ENTITLED

1 AN ACT concerning

2 **State Correctional Facilities - Abandoned Property - Contraband**

3 FOR the purpose of expanding the scope of certain provisions that relate to  
4 abandoned property in the Division of Correction to make these provisions  
5 applicable to all State correctional facilities; requiring the Commissioner of  
6 Correction, the Director of the Patuxent Institution, and the Commissioner of  
7 Pretrial Detention and Services to adopt certain regulations; making certain  
8 types of property subject to confiscation and forfeiture; requiring that  
9 correctional facilities provide certain notice to an inmate before property is  
10 forfeited; establishing that an inmate has a right to a hearing on the issue of  
11 forfeiture; and generally relating to abandoned property and contraband in  
12 State correctional facilities.

13 BY repealing and reenacting, with amendments,  
14 Article - Correctional Services  
15 Section 3-609  
16 Annotated Code of Maryland  
17 (As enacted by Chapter \_\_\_\_\_ (H.B. 11) of the Acts of the General Assembly of  
18 1999)

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

21 **Article - Correctional Services**

22 3-609.

23 (a) (1) [The Division] A STATE CORRECTIONAL FACILITY shall hold for 30  
24 days any personal property of an inmate that comes into the possession of ANY  
25 OFFICIAL OR EMPLOYEE OF the [Division] CORRECTIONAL FACILITY:

26 (i) as the result of an escape by the inmate; or

1 (ii) because the personal property has been unclaimed by an inmate  
2 who has the right to its possession.

3 (2) During the 30-day holding period, the [Division] CORRECTIONAL  
4 FACILITY shall post notice in a conspicuous location in the correctional facility [where  
5 the property initially was found].

6 (3) The [Division] CORRECTIONAL FACILITY shall deliver personal  
7 property being held by the [Division] CORRECTIONAL FACILITY to an inmate if:

8 (i) the property is claimed within the 30-day holding period;

9 (ii) the inmate satisfactorily establishes a right to possession of the  
10 property; and

11 (iii) the inmate gives a proper receipt for the property.

12 (b) (1) The Commissioner OF CORRECTION, THE DIRECTOR OF THE  
13 PATUXENT INSTITUTION, AND THE COMMISSIONER OF PRETRIAL DETENTION AND  
14 SERVICES shall adopt regulations:

15 (i) to define what property constitutes contraband in [the] STATE  
16 correctional facilities [in the Division; and];

17 (ii) to establish procedures for the confiscation of contraband by  
18 staff of [the] STATE correctional facilities; AND

19 (III) TO ESTABLISH PROCEDURES GOVERNING HEARINGS ON THE  
20 ISSUE OF FORFEITURE OF CONFISCATED PROPERTY.

21 (2) (I) [An] EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS  
22 SUBSECTION, AN inmate whose property is confiscated as contraband shall be  
23 notified of the right to have the property removed from the correctional facility or sent  
24 to a person outside the correctional facility at the inmate's expense.

25 [(3)] (II) If an inmate fails to have property removed from or sent outside  
26 the correctional facility within 30 days after receipt of notice of confiscation, the  
27 property shall be deemed abandoned property under subsection (c)(2) and (3) of this  
28 section.

29 (3) (I) CURRENCY, ALCOHOL, FERMENTED JUICES, CONTROLLED  
30 DANGEROUS SUBSTANCES, MEDICATIONS, AND PROPERTY THAT CAN BE READILY  
31 CONVERTED INTO OR USED AS A WEAPON SHALL BE SUBJECT TO CONFISCATION  
32 AND FORFEITURE.

33 (II) PROPERTY MAY NOT BE FORFEITED UNDER SUBPARAGRAPH (I)  
34 OF THIS PARAGRAPH, UNLESS, PRIOR TO FORFEITURE, THE CORRECTIONAL  
35 FACILITY PROVIDES NOTICE TO THE INMATE:

36 1. THAT THE PROPERTY HAS BEEN CONFISCATED; AND

1  
2 FORFEITURE. 2. OF THE RIGHT TO A HEARING ON THE ISSUE OF

3 (c) (1) Personal property that is unclaimed within the 30-day holding  
4 period established under subsection (a) of this section shall be deemed abandoned  
5 property.

6 (2) Abandoned property may be SOLD, converted to the use of the  
7 Division OF CORRECTION, THE PATUXENT INSTITUTION, OR THE DIVISION OF  
8 PRETRIAL DETENTION AND SERVICES, [sold,] or otherwise disposed of in accordance  
9 with procedures established by [the Commissioner] REGULATION.

10 (3) All claims to abandoned property are absolutely barred.

11 (d) (1) This section does not create or recognize any cause, action, or defense  
12 or abridge any immunity of the [Division, the Commissioner, or any employee]  
13 DEPARTMENT OR ANY OF ITS UNITS, OFFICIALS, OR EMPLOYEES.

14 (2) This section does not affect the authority of [the] STATE correctional  
15 facilities [in the Division] to seize and dispose of personal property that is  
16 contraband per se in accordance with applicable law.

17 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
18 October 1, 1999.