

HOUSE BILL 1063

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HB 529/98 - JUD

1999 Regular Session
9r2220

By: **Delegate J. Kelly**
Introduced and read first time: February 19, 1999
Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Inmates - Eligibility for Leave**

3 FOR the purpose of making an inmate who has been sentenced to the Division of
4 Correction or the Patuxent Institution for a term of life imprisonment or life
5 imprisonment without the possibility of parole ineligible for certain types of
6 leave; and generally relating to an inmate's eligibility for certain types of leave.

7 BY repealing and reenacting, with amendments,
8 Article - Correctional Services
9 Section 3-801, 3-810, 3-811, and 4-303
10 Annotated Code of Maryland
11 (As enacted by Chapter _____ (H.B. 11) of the Acts of the General Assembly of
12 1999)

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

15 **Article - Correctional Services**

16 3-801.

17 (a) THIS SECTION DOES NOT APPLY TO AN INMATE WHO HAS BEEN
18 SENTENCED TO A TERM OF LIFE IMPRISONMENT OR LIFE IMPRISONMENT WITHOUT
19 THE POSSIBILITY OF PAROLE.

20 (B) The Division may establish a work-release program.

21 [(b)] (C) Under the work-release program, an inmate who is sentenced to the
22 jurisdiction of the Division may be granted the privilege of leaving actual confinement
23 during necessary and reasonable hours:

24 (1) to work at gainful public or private employment;

25 (2) to attend school; or

26 (3) under appropriate conditions, to seek employment.

1 [(c)] (D) (1) An inmate may apply to the warden of the correctional facility
2 in which the inmate is confined for permission to participate in the program.

3 (2) An application shall include:

4 (i) a statement by the inmate that the inmate agrees to abide by all
5 terms and conditions of the particular plan that the Commissioner or the
6 Commissioner's designee adopts for the inmate;

7 (ii) the name and address of a proposed employer or school training
8 program, if any; and

9 (iii) any other information that the Division or the Commissioner
10 requires, including the inmate's agreement to waive the right to contest extradition
11 proceedings.

12 [(d)] (E) (1) A warden may recommend an inmate's application to the
13 Commissioner.

14 (2) The Commissioner or the Commissioner's designee may approve,
15 disapprove, or defer action on the application.

16 (3) If an inmate's application is approved, the Commissioner or the
17 Commissioner's designee shall adopt a work-release plan for the inmate that:

18 (i) contains terms and conditions that are necessary and proper;

19 (ii) may include the inmate's waiver of the right to contest
20 extradition proceedings; and

21 (iii) is signed by the inmate before the inmate participates in the
22 work-release program.

23 (4) At any time and for any reason, the Commissioner may revoke
24 approval for an inmate to participate in the work-release program.

25 3-810.

26 (a) THIS SECTION DOES NOT APPLY TO AN INMATE WHO HAS BEEN
27 SENTENCED TO A TERM OF LIFE IMPRISONMENT OR LIFE IMPRISONMENT WITHOUT
28 THE POSSIBILITY OF PAROLE.

29 (B) On the recommendation of treatment staff and with the approval of the
30 managing official of a correctional facility in the Division, the Commissioner or
31 Deputy Commissioner may grant special leave to an inmate to allow an inmate to
32 participate in a special community or other meritorious program or activity within or
33 outside of the State that the Commissioner and managing official believe:

34 (1) would benefit the inmate;

35 (2) would not be detrimental to the public; and

1 (3) would help rehabilitate the inmate.

2 [(b)] (C) The Commissioner or Deputy Commissioner may grant special leave
3 for the purpose of allowing an inmate to:

4 (1) attend an educational program;

5 (2) improve job skills;

6 (3) attend a trade licensing examination;

7 (4) be interviewed for employment;

8 (5) participate as a volunteer for a governmental unit in an activity that
9 serves the general public;

10 (6) participate in athletic competition; or

11 (7) participate in a civic activity that benefits the inmate or the
12 community.

13 [(c)] (D) (1) An inmate is not eligible for special leave under this section
14 unless the managing official and Commissioner concur that positive attitudinal and
15 growth patterns are being established.

16 (2) Special leave shall be issued in writing and signed personally by both
17 the managing official and either the Commissioner or Deputy Commissioner.

18 (3) As a condition of granting special leave, the Commissioner may
19 require that the inmate agree to waive the right to contest extradition proceedings.

20 (4) The Commissioner or Deputy Commissioner shall file the order
21 granting special leave in the Division.

22 3-811.

23 (a) THIS SECTION DOES NOT APPLY TO AN INMATE WHO HAS BEEN
24 SENTENCED TO A TERM OF LIFE IMPRISONMENT OR LIFE IMPRISONMENT WITHOUT
25 THE POSSIBILITY OF PAROLE.

26 (B) The Commissioner or Commissioner's designee may grant family leave to
27 allow an inmate to visit the inmate's family for a reasonable time if the inmate:

28 (1) is confined in a correctional facility in the Division;

29 (2) is classified to be in minimum security status; and

30 (3) is recommended by the correctional facility's case management team
31 and managing official.

1 [(b)] (C) (1) When granting family leave to an inmate, the Commissioner or
2 Commissioner's designee shall:

3 (i) issue a written authorization to the inmate that specifies the
4 conditions of the family leave; and

5 (ii) file a copy of the authorization in the Commissioner's office.

6 (2) While on family leave, an inmate at all times shall possess a copy of
7 the authorization for family leave.

8 [(c)] (D) The failure of an inmate to comply with the terms of the
9 authorization for family leave is a violation of Article 27, § 139 of the Code.

10 [(d)] (E) The Commissioner may adopt regulations to carry out this section.

11 4-303.

12 (a) THIS SECTION DOES NOT APPLY TO AN INMATE WHO HAS BEEN
13 SENTENCED TO A TERM OF LIFE IMPRISONMENT OR LIFE IMPRISONMENT WITHOUT
14 THE POSSIBILITY OF PAROLE.

15 (B) (1) Subject to § 4-305 of this title, inmates transferred to the Institution
16 for treatment are eligible for the work release and leave of absence programs provided
17 for in §§ 3-801 through 3-806 and 3-808 through 3-811 of this article.

18 (2) The Board of Review shall perform the functions of the warden and
19 the Commissioner under §§ 3-801 through 3-806 and 3-808 through 3-811 of this
20 article with respect to inmates confined in the Institution.

21 [(b)] (C) (1) The Board of Review may not grant an eligible person work
22 release or leave under this section until the Board of Review mails written notice to
23 the victim that the Board of Review intends to decide whether to grant work release
24 or leave to the eligible person.

25 (2) Before the Board of Review decides whether to grant work release or
26 leave to an eligible person, the Board of Review shall give the victim a reasonable
27 opportunity to comment in writing on work release or leave or to present oral
28 testimony in the manner that the Board of Review establishes by regulation.

29 (3) The Board of Review promptly shall notify the victim of the decision
30 of the Board of Review regarding work release or leave.

31 (4) The victim may designate, in writing to the Board of Review, the
32 name and address of a representative who is a resident of the State to receive notice
33 for the victim.

34 (5) The Board of Review shall delete the victim's address and phone
35 number from a document before the Board of Review allows examination of the
36 document by the eligible person or the eligible person's representative.

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