

SENATE BILL 44

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2000 Regular Session
(01r0101)

ENROLLED BILL
-- Judicial Proceedings/Judiciary --

Introduced by **Chairman, Judicial Proceedings Committee (Departmental -
Public Safety and Correctional Services)**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

President.

CHAPTER _____

1 AN ACT concerning

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

3 FOR the purpose of providing procedures for State correctional facilities to dispose of
4 abandoned property and contraband; requiring the Commissioner of Correction,
5 the Director of the Patuxent Institution, and the Commissioner of Pretrial
6 Detention and Services to adopt certain regulations; making confiscated
7 contraband subject to forfeiture; requiring that correctional facilities provide
8 certain notice to an inmate before the inmate's property may be forfeited;
9 establishing that an inmate has a right to a hearing on the issue of forfeiture
10 under certain circumstances; clarifying that certain contraband is subject to
11 seizure and disposal without a hearing under certain circumstances; defining a
12 certain term; and generally relating to abandoned property and contraband in
13 State correctional facilities.

14 BY repealing

15 Article - Correctional Services

1 Section 3-609
2 Annotated Code of Maryland
3 (1999 Volume)

4 BY adding to
5 Article - Correctional Services
6 Section 10-801 to be under the new subtitle "Subtitle 8. Miscellaneous"
7 Annotated Code of Maryland
8 (1999 Volume)

9 BY renumbering
10 Article - Correctional Services
11 Section 3-610
12 to be Section 3-609
13 Annotated Code of Maryland
14 (1999 Volume)

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

17 **Article - Correctional Services**

18 [3-609.

19 (a) (1) The Division shall hold for 30 days any personal property of an
20 inmate that comes into the possession of the Division:

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

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

24 (2) During the 30-day holding period, the Division shall post notice in a
25 conspicuous location in the correctional facility where the property initially was
26 found.

27 (3) The Division shall deliver personal property being held by the
28 Division to an inmate if:

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

30 (ii) the inmate satisfactorily establishes a right to possession of the
31 property; and

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

33 (b) (1) The Commissioner shall adopt regulations:

1 (i) to define what property constitutes contraband in the
2 correctional facilities in the Division; and

3 (ii) to establish procedures for the confiscation of contraband by
4 staff of the correctional facilities.

5 (2) An inmate whose property is confiscated as contraband shall be
6 notified of the right to have the property removed from the correctional facility or sent
7 to a person outside the correctional facility at the inmate's expense.

8 (3) If an inmate fails to have property removed from or sent outside the
9 correctional facility within 30 days after receipt of notice of confiscation, the property
10 shall be deemed abandoned property under subsection (c)(2) and (3) of this section.

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

14 (2) Abandoned property may be converted to the use of the Division, sold,
15 or otherwise disposed of in accordance with procedures established by the
16 Commissioner.

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

18 (d) (1) This section does not create or recognize any cause, action, or defense
19 or abridge any immunity of the Division, the Commissioner, or any employee.

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

23 SUBTITLE 8. MISCELLANEOUS.

24 10-801.

25 (A) IN THIS SECTION:

26 (1) "CONTRABAND" MEANS ANY ITEM, MATERIAL, SUBSTANCE, OR
27 OTHER THING OF VALUE THAT:

28 (I) IS NOT AUTHORIZED FOR INMATE POSSESSION BY THE
29 COMMISSIONER OF CORRECTION, THE DIRECTOR OF PATUXENT INSTITUTION, THE
30 COMMISSIONER OF PRETRIAL DETENTION AND SERVICES, OR THE WARDEN OF A
31 STATE CORRECTIONAL FACILITY; OR

32 (II) IS BROUGHT INTO A STATE CORRECTIONAL FACILITY IN A
33 MANNER PROHIBITED BY THE COMMISSIONER OF CORRECTION, THE DIRECTOR OF
34 PATUXENT INSTITUTION, THE COMMISSIONER OF PRETRIAL DETENTION AND
35 SERVICES, OR THE WARDEN OF A STATE CORRECTIONAL FACILITY.

1 (2) "CONTRABAND" INCLUDES ANY OTHER PROPERTY DEFINED IN
2 REGULATIONS BY THE COMMISSIONER OF CORRECTION, THE DIRECTOR OF
3 PATUXENT INSTITUTION, OR THE COMMISSIONER OF PRETRIAL DETENTION AND
4 SERVICES.

5 (A) (B) (1) A STATE CORRECTIONAL FACILITY SHALL HOLD FOR 30 DAYS
6 ANY PERSONAL PROPERTY OF AN INMATE THAT COMES INTO THE POSSESSION OF
7 ANY OFFICIAL OR EMPLOYEE OF THE STATE CORRECTIONAL FACILITY:

8 (I) AS THE RESULT OF AN ESCAPE BY THE INMATE; OR

9 (II) BECAUSE THE PERSONAL PROPERTY HAS BEEN UNCLAIMED BY
10 AN INMATE WHO HAS THE RIGHT TO ITS POSSESSION.

11 (2) DURING THE 30-DAY HOLDING PERIOD, THE STATE CORRECTIONAL
12 FACILITY SHALL POST NOTICE IN A CONSPICUOUS LOCATION IN THE STATE
13 CORRECTIONAL FACILITY.

14 (3) THE STATE CORRECTIONAL FACILITY SHALL DELIVER PERSONAL
15 PROPERTY BEING HELD BY THE STATE CORRECTIONAL FACILITY TO AN INMATE IF:

16 (I) THE PROPERTY IS CLAIMED WITHIN THE 30-DAY HOLDING
17 PERIOD;

18 (II) THE INMATE SATISFACTORILY ESTABLISHES A RIGHT TO
19 POSSESSION OF THE PROPERTY; AND

20 (III) THE INMATE GIVES A PROPER RECEIPT FOR THE PROPERTY.

21 (B) (C) (1) THE COMMISSIONER OF CORRECTION, THE DIRECTOR OF THE
22 PATUXENT INSTITUTION, AND THE COMMISSIONER OF PRETRIAL DETENTION AND
23 SERVICES SHALL ADOPT REGULATIONS:

24 (I) TO DEFINE WHAT PROPERTY CONSTITUTES CONTRABAND IN
25 STATE CORRECTIONAL FACILITIES;

26 (II) TO ESTABLISH PROCEDURES FOR THE CONFISCATION OF
27 CONTRABAND BY STAFF OF STATE CORRECTIONAL FACILITIES; AND

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

30 (2) (I) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION,
31 AN INMATE WHOSE PROPERTY IS CONFISCATED AS CONTRABAND SHALL BE
32 NOTIFIED OF THE RIGHT TO HAVE THE PROPERTY REMOVED FROM THE STATE
33 CORRECTIONAL FACILITY OR SENT TO A PERSON OUTSIDE THE STATE
34 CORRECTIONAL FACILITY AT THE INMATE'S EXPENSE.

35 (II) IF AN INMATE FAILS TO HAVE PROPERTY REMOVED FROM OR
36 SENT OUTSIDE THE STATE CORRECTIONAL FACILITY WITHIN 30 DAYS AFTER

1 RECEIPT OF NOTICE OF CONFISCATION, THE PROPERTY SHALL BE DEEMED
2 ABANDONED PROPERTY UNDER SUBSECTION ~~(C)~~ (D)(2) AND (3) OF THIS SECTION.

3 (3) (I) PROPERTY CONFISCATED AS CONTRABAND MAY BE SUBJECT
4 TO FORFEITURE.

5 (II) PROPERTY MAY NOT BE FORFEITED UNDER SUBPARAGRAPH (I)
6 OF THIS PARAGRAPH, UNLESS, PRIOR TO FORFEITURE, THE STATE CORRECTIONAL
7 FACILITY PROVIDES NOTICE TO THE INMATE:

8 1. THAT THE PROPERTY HAS BEEN CONFISCATED; AND

9 2. OF THE RIGHT TO A HEARING ON THE ISSUE OF
10 FORFEITURE.

11 (III) A HEARING ON A DISCIPLINARY INFRACTION MAY INCLUDE
12 THE ADJUDICATION OF ANY ISSUE OF FORFEITURE OF CONFISCATED PROPERTY.

13 ~~(C)~~ (D) (1) PERSONAL PROPERTY THAT IS UNCLAIMED WITHIN THE
14 30-DAY HOLDING PERIOD ESTABLISHED UNDER ~~SUBSECTION (A)~~ SUBSECTION (B) OF
15 THIS SECTION SHALL BE DEEMED ABANDONED PROPERTY.

16 (2) ABANDONED PROPERTY MAY BE SOLD, CONVERTED TO THE USE OF
17 THE DIVISION OF CORRECTION, THE PATUXENT INSTITUTION, OR THE DIVISION OF
18 PRETRIAL DETENTION AND SERVICES, OR OTHERWISE DISPOSED OF IN
19 ACCORDANCE WITH PROCEDURES ESTABLISHED BY REGULATION.

20 (3) ALL CLAIMS TO ABANDONED PROPERTY ARE ABSOLUTELY BARRED.

21 ~~(D)~~ (E) (1) THIS SECTION DOES NOT CREATE OR RECOGNIZE ANY CAUSE,
22 ACTION, OR DEFENSE OR ABRIDGE ANY IMMUNITY OF THE DEPARTMENT OR ANY OF
23 ITS UNITS, OFFICIALS, OR EMPLOYEES.

24 (2) THIS SECTION DOES NOT AFFECT THE AUTHORITY OF STATE
25 CORRECTIONAL FACILITIES TO SEIZE AND DISPOSE OF PERSONAL PROPERTY THAT
26 IS CONTRABAND PER SE IN ACCORDANCE WITH APPLICABLE LAW WITHOUT A
27 HEARING.

28 SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 3-610 of
29 Article - Correctional Services of the Annotated Code of Maryland be renumbered to
30 be Section(s) 3-609.

31 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take
32 effect October 1, 2000.

