

SENATE BILL 44

Unofficial Copy
E2
HB 122/99 - JUD

2000 Regular Session
0lr0101

(PRE-FILED)

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

Requested: November 3, 1999

Introduced and read first time: January 12, 2000

Assigned to: Judicial Proceedings

A BILL ENTITLED

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 and generally relating to abandoned property and contraband in State
11 correctional facilities.

12 BY repealing

13 Article - Correctional Services
14 Section 3-609
15 Annotated Code of Maryland
16 (1999 Volume)

17 BY adding to

18 Article - Correctional Services
19 Section 10-801 to be under the new subtitle "Subtitle 8. Miscellaneous"
20 Annotated Code of Maryland
21 (1999 Volume)

22 BY renumbering

23 Article - Correctional Services
24 Section 3-610
25 to be Section 3-609
26 Annotated Code of Maryland
27 (1999 Volume)

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

3 **Article - Correctional Services**

4 [3-609.

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

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

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

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

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

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

16 (ii) the inmate satisfactorily establishes a right to possession of the
17 property; and

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

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

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

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

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

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

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

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

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

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

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

10 SUBTITLE 8. MISCELLANEOUS.

11 10-801.

12 (A) (1) A STATE CORRECTIONAL FACILITY SHALL HOLD FOR 30 DAYS ANY
13 PERSONAL PROPERTY OF AN INMATE THAT COMES INTO THE POSSESSION OF ANY
14 OFFICIAL OR EMPLOYEE OF THE CORRECTIONAL FACILITY:

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

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

18 (2) DURING THE 30-DAY HOLDING PERIOD, THE CORRECTIONAL
19 FACILITY SHALL POST NOTICE IN A CONSPICUOUS LOCATION IN THE CORRECTIONAL
20 FACILITY.

21 (3) THE CORRECTIONAL FACILITY SHALL DELIVER PERSONAL
22 PROPERTY BEING HELD BY THE CORRECTIONAL FACILITY TO AN INMATE IF:

23 (I) THE PROPERTY IS CLAIMED WITHIN THE 30-DAY HOLDING
24 PERIOD;

25 (II) THE INMATE SATISFACTORILY ESTABLISHES A RIGHT TO
26 POSSESSION OF THE PROPERTY; AND

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

28 (B) (1) THE COMMISSIONER OF CORRECTION, THE DIRECTOR OF THE
29 PATUXENT INSTITUTION, AND THE COMMISSIONER OF PRETRIAL DETENTION AND
30 SERVICES SHALL ADOPT REGULATIONS:

31 (I) TO DEFINE WHAT PROPERTY CONSTITUTES CONTRABAND IN
32 STATE CORRECTIONAL FACILITIES;

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

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

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

8 (II) IF AN INMATE FAILS TO HAVE PROPERTY REMOVED FROM OR
9 SENT OUTSIDE THE CORRECTIONAL FACILITY WITHIN 30 DAYS AFTER RECEIPT OF
10 NOTICE OF CONFISCATION, THE PROPERTY SHALL BE DEEMED ABANDONED
11 PROPERTY UNDER SUBSECTION (C)(2) AND (3) OF THIS SECTION.

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

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

17 1. THAT THE PROPERTY HAS BEEN CONFISCATED; AND
18 2. OF THE RIGHT TO A HEARING ON THE ISSUE OF
19 FORFEITURE.

20 (C) (1) PERSONAL PROPERTY THAT IS UNCLAIMED WITHIN THE 30-DAY
21 HOLDING PERIOD ESTABLISHED UNDER SUBSECTION (A) OF THIS SECTION SHALL BE
22 DEEMED ABANDONED PROPERTY.

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

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

28 (D) (1) THIS SECTION DOES NOT CREATE OR RECOGNIZE ANY CAUSE,
29 ACTION, OR DEFENSE OR ABRIDGE ANY IMMUNITY OF THE DEPARTMENT OR ANY OF
30 ITS UNITS, OFFICIALS, OR EMPLOYEES.

31 (2) THIS SECTION DOES NOT AFFECT THE AUTHORITY OF STATE
32 CORRECTIONAL FACILITIES TO SEIZE AND DISPOSE OF PERSONAL PROPERTY THAT
33 IS CONTRABAND PER SE IN ACCORDANCE WITH APPLICABLE LAW.

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

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