

SENATE BILL 44

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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

Committee Report: Favorable
Senate action: Adopted
Read second time: February 8, 2000

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 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

1 Article - Correctional Services
2 Section 3-610
3 to be Section 3-609
4 Annotated Code of Maryland
5 (1999 Volume)

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

8 **Article - Correctional Services**

9 [3-609.

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

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

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

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

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

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

21 (ii) the inmate satisfactorily establishes a right to possession of the
22 property; and

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

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

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

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

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

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

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

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

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

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

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

13 SUBTITLE 8. MISCELLANEOUS.

14 10-801.

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

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

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

21 (2) DURING THE 30-DAY HOLDING PERIOD, THE CORRECTIONAL
22 FACILITY SHALL POST NOTICE IN A CONSPICUOUS LOCATION IN THE CORRECTIONAL
23 FACILITY.

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

26 (I) THE PROPERTY IS CLAIMED WITHIN THE 30-DAY HOLDING
27 PERIOD;

28 (II) THE INMATE SATISFACTORILY ESTABLISHES A RIGHT TO
29 POSSESSION OF THE PROPERTY; AND

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

31 (B) (1) THE COMMISSIONER OF CORRECTION, THE DIRECTOR OF THE
32 PATUXENT INSTITUTION, AND THE COMMISSIONER OF PRETRIAL DETENTION AND
33 SERVICES SHALL ADOPT REGULATIONS:

1 (I) TO DEFINE WHAT PROPERTY CONSTITUTES CONTRABAND IN
2 STATE CORRECTIONAL FACILITIES;

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

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

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

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

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

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

21 1. THAT THE PROPERTY HAS BEEN CONFISCATED; AND

22 2. OF THE RIGHT TO A HEARING ON THE ISSUE OF
23 FORFEITURE.

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

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

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

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

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

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

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