

SENATE BILL 286

Unofficial Copy
L1

2001 Regular Session
11r1305
CF 11r1304

By: **Senator Astle**

Introduced and read first time: January 26, 2001

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Anne Arundel County Department of Detention Facilities - Home Detention**
3 **and Farm Labor Programs**

4 FOR the purpose of requiring the Administrator of the Anne Arundel County
5 Department of Detention Facilities to establish and administer a home
6 detention program and adopt regulations for the program; restricting which
7 inmates may be eligible for the program; providing that the inmates who
8 participate in the program are responsible for certain expenses and may be
9 required to pay a fee in connection with the program; setting penalties for an
10 inmate's violation of a term or condition of the program; authorizing the
11 Administrator to limit the number of participants in the program; repealing
12 authorization for the Administrator to assign certain inmates to perform farm
13 labor under certain conditions; repealing funding provisions for a farm labor
14 program; and generally relating to the home detention program and farm labor
15 program administered by the Anne Arundel County Department of Detention
16 Facilities.

17 BY repealing and reenacting, with amendments,
18 Article - Correctional Services
19 Section 11-703
20 Annotated Code of Maryland
21 (1999 Volume and 2000 Supplement)

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

24 **Article - Correctional Services**

25 11-703.

26 (a) (1) In this section the following words have the meanings indicated.

27 (2) "Administrator" means the Administrator of the County's local
28 correctional facilities.

1 (3) "Participant" means a convicted individual who participates in a
2 program under this section.

3 (4) "Program" means, unless the context requires otherwise, a
4 rehabilitation, HOME DETENTION, or work program established and conducted under
5 this section.

6 (b) This section applies only in Anne Arundel County.

7 (c) (1) If a provision of subsections (a) through (e) of this section is
8 inconsistent with another provision in the Code, the provision of subsections (a)
9 through (e) of this section controls.

10 (2) The privileges and penalties set forth in subsection [(d)(1)(v)]
11 (E)(1)(V) and (vi) of this section are the exclusive privileges and penalties that relate to
12 the length of sentence of a participant in a program.

13 (3) While released from confinement under the terms of a program, a
14 participant is not an agent, employee, or servant of the county.

15 (D) (1) THE ADMINISTRATOR SHALL:

16 (I) ESTABLISH AND ADMINISTER A HOME DETENTION PROGRAM;
17 AND

18 (II) ADOPT REGULATIONS FOR THE PROGRAM.

19 (2) (I) WHEN AN INDIVIDUAL WHO IS CONVICTED OF A CRIME IS
20 SENTENCED OR AT ANY TIME DURING THE INDIVIDUAL'S CONFINEMENT AS AN
21 INMATE, A SENTENCING JUDGE MAY ALLOW THE INDIVIDUAL TO PARTICIPATE IN
22 THE HOME DETENTION PROGRAM.

23 (II) IN ADDITION TO PARTICIPATION AT THE RECOMMENDATION
24 OF THE SENTENCING JUDGE UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, AT
25 ANY TIME AFTER AN INMATE HAS SERVED NOT LESS THAN 25% OF THE INMATE'S
26 SENTENCE, THE ADMINISTRATOR MAY PLACE THE INMATE IN THE HOME
27 DETENTION PROGRAM.

28 (3) SUBJECT TO PARAGRAPH (4) OF THIS SUBSECTION, AN INMATE IS
29 ELIGIBLE FOR THE HOME DETENTION PROGRAM IF THE INMATE:

30 (I) IS RECOMMENDED FOR THE PROGRAM BY THE SENTENCING
31 JUDGE OR PLACED IN THE PROGRAM BY THE ADMINISTRATOR UNDER PARAGRAPH
32 (2) OF THIS SUBSECTION; AND

33 (II) HAS NO OTHER CHARGES PENDING IN ANY JURISDICTION.

34 (4) AN INMATE IS NOT ELIGIBLE FOR THE HOME DETENTION PROGRAM
35 IF THE INMATE:

36 (I) IS SERVING A SENTENCE FOR A CRIME OF VIOLENCE; OR

- 1 (II) HAS BEEN FOUND GUILTY OF THE CRIME OF:
2 1. CHILD ABUSE UNDER ARTICLE 27, § 35C OF THE CODE; OR
3 2. ESCAPE UNDER ARTICLE 27, § 137 OF THE CODE.

4 (5) WHILE PARTICIPATING IN THE HOME DETENTION PROGRAM, AN
5 INMATE IS RESPONSIBLE FOR:

6 (I) THE COSTS OF THE INMATE'S MEDICAL CARE AND RELATED
7 EXPENSES; AND

8 (II) THE COSTS OF THE INMATE'S LODGING, FOOD, CLOTHING,
9 TRANSPORTATION, RESTITUTION, AND TAXES.

10 (6) THE ADMINISTRATOR MAY:

11 (I) COLLECT A REASONABLE FEE FROM EACH INMATE
12 PARTICIPATING IN THE HOME DETENTION PROGRAM; OR

13 (II) WAIVE OR REDUCE THE FEE.

14 (7) THE ADMINISTRATOR MAY DETERMINE THE MAXIMUM NUMBER OF
15 PARTICIPANTS IN THE HOME DETENTION PROGRAM.

16 (8) AN INMATE WHO KNOWINGLY VIOLATES A TERM OR CONDITION OF
17 THE HOME DETENTION PROGRAM IS SUBJECT TO:

18 (I) THE PENALTIES PROVIDED UNDER § 11-726 OF THIS SUBTITLE;
19 AND

20 (II) ANY OTHER DISCIPLINARY ACTION AUTHORIZED UNDER LAW.

21 [(d)] (E) (1) The Administrator may:

22 (i) establish, for the rehabilitation and training of an inmate who
23 is sentenced to imprisonment in a local correctional facility, a program that enables
24 the inmate to:

25 1. attend a vocational or educational institution in the
26 county;

27 2. work at gainful, private employment in the county; or

28 3. participate in any other training or rehabilitation program
29 in the county;

30 (ii) establish eligibility criteria for participation in a program;

31 (iii) release an eligible inmate from actual confinement to
32 participate in a program;

1 (iv) establish any other training or rehabilitation program;

2 (v) reduce a participant's sentence 1 day for each day that the
3 participant:

4 1. performs with exceptional industry, application, and skill
5 any industrial, agricultural, or administrative task assigned to the participant; or

6 2. performs with satisfactory industry, application, and
7 progress in the program to which the participant is assigned; and

8 (vi) after an administrative hearing, cancel any earned diminution
9 of an inmate's term of confinement if the inmate violates a regulation adopted under
10 this section.

11 (2) (i) The Administrator shall adopt regulations to conduct each
12 program.

13 (ii) In adopting the regulations, the Administrator shall consider
14 the safety of the public and the security of a local correctional facility.

15 (iii) If a condition of sentence imposed by a court on an inmate is
16 inconsistent with a regulation adopted under this subsection, the condition imposed
17 by the court controls as to that inmate.

18 (3) While not released from confinement under the terms of a program,
19 each participant shall be confined in a local correctional facility.

20 (4) (i) The Administrator or Administrator's designee shall collect
21 each participant's total earnings, less payroll deductions.

22 (ii) From the participant's earnings, the Administrator or designee
23 shall pay:

24 1. the cost to the County of providing food, lodging, and
25 clothing for the participant;

26 2. the food, travel, and other expenses of the participant
27 incidental to participation in the program;

28 3. voluntary or court-ordered payments for support of a
29 dependent;

30 4. court-ordered costs and fines;

31 5. repayment to the State for court-appointed counsel;

32 6. if ordered by the court, repayment to the State for the
33 services of the public defender; and

34 7. court-ordered payments for restitution.

- 1 (iii) The Administrator or designee shall:
- 2 1. credit to the participant's account any remaining balance;
- 3 and
- 4 2. dispose of the balance as requested by the participant and
- 5 as approved by the Administrator.

6 (5) A participant who knowingly violates a regulation adopted under this

7 section:

- 8 (i) is subject to removal from the program;
- 9 (ii) after an administrative hearing, is subject to cancellation of any
- 10 earned diminution of the inmate's term of confinement; and
- 11 (iii) is subject to the provisions of § 11-726 of this subtitle.

12 [(e)] (F) (1) A court may require an individual who is convicted of a crime to

13 satisfy a fine or court costs by participating in a work program established under the

14 jurisdiction of the Division of Parole and Probation.

15 (2) An individual who participates in the work program shall receive

16 credit of at least the federal minimum wage per hour toward the fine and court costs.

17 [(f)] (1) (i) In this subsection, "farm labor" means agricultural work.

18 (ii) "Farm labor" includes:

- 19 1. the threshing or harvesting of crops;
- 20 2. the production of any agricultural, horticultural,
- 21 vegetable, or fruit product of the soil, livestock, meats, marine food products, eggs,
- 22 dairy products, wool, nuts, honey, and every product of farm, forest, garden, orchard,
- 23 or water; and
- 24 3. any services that are generally regarded as incidental to
- 25 and connected with farms, dairies, or the seafood industry.

26 (2) The Administrator may assign able-bodied male inmates in a local

27 correctional facility to perform farm labor on the following terms and conditions:

28 (i) the assignment may be made only after a person that desires to

29 employ farm labor submits a written request that shows to the satisfaction of the

30 Administrator that farm labor is not otherwise obtainable;

31 (ii) the person requesting the farm labor shall pay the costs

32 incident to an assignment to farm labor, including the cost of transportation of the

33 inmates to and from the local correctional facility, a reasonable per diem wage for an

34 inmate performing farm labor, and the cost of properly guarding an inmate while

35 performing farm labor;

1 (iii) the Administrator may require proof of financial responsibility,
2 including a payment in advance;

3 (iv) the person requesting the farm labor shall assume any liability
4 for an injury to an inmate while being transported to or from a local correctional
5 facility or while performing farm labor;

6 (v) assignments to farm labor shall be made on a daily basis only
7 and an inmate assigned to farm labor shall be returned to the local correctional
8 facility each night; and

9 (vi) other terms and conditions that the Administrator considers
10 advisable.

11 (3) The County Council shall reimburse the Administrator out of the
12 County fund for any expenses incurred in conveying an inmate to and from a farm
13 labor site or in properly guarding an inmate while performing farm labor under
14 regulations that the Administrator or other officer considers necessary for the health
15 and safe custody of the inmate.]

16 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
17 October 1, 2001.