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

Introduced and read first time: February 8, 2002

Assigned to: Judiciary

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A BILL ENTITLED

1 AN ACT concerning

2 **Patuxent Institution - Eligible Person and Youth Programs**

3 FOR the purpose of expanding the scope of programs at the Patuxent Institution;  
4 altering the scope of information in the Institution's annual report; providing  
5 procedures for the mandatory supervision release of certain inmates from the  
6 institution; authorizing the revocation of the release under certain  
7 circumstances; reassigning responsibility for the intake of certain inmates from  
8 the Commissioner to the Director; clarifying the conduct that constitutes a  
9 major violation; establishing authority for the Board of Review to act in  
10 conjunction with persons in the Youth Program; defining terms; and generally  
11 relating to the Patuxent Institution.

12 BY repealing and reenacting, with amendments,  
13 Article - Correctional Services  
14 Section 4-101, 4-202, 4-203(d), 4-301(a), 4-304, 4-306(c), and 4-401  
15 Annotated Code of Maryland  
16 (1999 Volume and 2001 Supplement)

17 BY adding to  
18 Article - Correctional Services  
19 Section 4-213  
20 Annotated Code of Maryland  
21 (1999 Volume and 2001 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 4-101.

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

1 (b) "Board of Review" means the institutional Board of Review created under  
2 § 4-205 of this title.

3 (c) "Commissioner" means the Commissioner of Correction.

4 (d) "Director" means the Director of the Patuxent Institution.

5 (e) (1) "Eligible person" means an individual who:

6 (i) has been convicted of a crime and is serving a sentence of  
7 imprisonment with at least 3 years remaining on the sentence;

8 (ii) has an intellectual impairment or emotional imbalance;

9 (iii) is likely to respond favorably to the programs and services that  
10 the Institution provides;

11 (iv) can better respond to remediation through those programs and  
12 services than by other incarceration; and

13 (v) meets the eligibility criteria that the Secretary establishes  
14 under § 4-208(b) of this title.

15 (2) "Eligible person" does not include an individual who:

16 (i) is serving two or more sentences of imprisonment for life under  
17 Article 27, § 412 of the Code;

18 (ii) is serving one or more sentences of imprisonment for life when a  
19 court or jury has found under Article 27, § 413 of the Code, beyond a reasonable doubt,  
20 that one or more aggravating circumstances existed; or

21 (iii) has been convicted of murder in the first degree, rape in the  
22 first degree, or a sexual offense in the first degree, unless the sentencing judge, at the  
23 time of sentencing or in the exercise of the judge's revisory power under the Maryland  
24 Rules, recommends that the individual be referred to the Institution for evaluation.

25 (f) "Evaluation team" means a team of at least three professional employees  
26 of the Institution, one of whom shall be a social worker, one of whom shall be a  
27 psychologist, and one of whom shall be a psychiatrist.

28 (g) "Institution" means the Patuxent Institution.

29 (H) "PATUXENT PROGRAMS" INCLUDES THE ELIGIBLE PERSON PROGRAM AS  
30 DEFINED IN § 4-301 OF THIS TITLE, AND THE PATUXENT YOUTH PROGRAM AS  
31 DEFINED IN § 4-401 OF THIS TITLE.

32 [(h)] (I) "Remediation" means treatment for specific areas of mental and  
33 social deficiencies that are highly related to criminal behavior.

34 [(i)] (J) "Victim" means:

1 (1) an individual who suffers personal physical injury or death as a  
2 direct result of a crime; or

3 (2) if the victim is deceased, a designated family member of the victim.

4 4-202.

5 (a) The purpose of the Institution is to provide remediation programs and  
6 services to youthful OFFENDERS, OTHER eligible persons, AND MENTALLY ILL  
7 INMATES including a range of program alternatives indicated by the current state of  
8 knowledge to be appropriate and effective for the population being served.

9 (b) The Institution shall establish and maintain, as an integral part of the  
10 programs, an effective research, development, and training effort to evaluate and  
11 recommend improvements on an ongoing basis.

12 (c) (1) No more than 350 eligible persons may be enrolled in the eligible  
13 person remediation program.

14 (2) The Institution may provide other remediation programs that the  
15 Secretary designates.

16 4-203.

17 (d) (1) On or before October 31 of each year, the Director shall submit an  
18 annual report to the Secretary and the Governor.

19 (2) The annual report shall state:

20 (i) the Institution's expenses, receipts, disbursements, condition,  
21 and progress;

22 (ii) the number of inmates and each inmate's age, sex, race, place of  
23 birth and conviction, crime, and term of confinement;

24 (iii) the number of inmates who [escape,] ARE ADMITTED TO EACH  
25 OF THE PATUXENT PROGRAMS;

26 (IV) THE NUMBER OF DIVISION OF CORRECTION INMATES  
27 RECEIVING CARE DURING THE YEAR AT PATUXENT INSTITUTION FOR MENTAL  
28 HEALTH CONDITIONS;

29 (V) THE NUMBER OF PATUXENT PROGRAM INMATES WHO are  
30 pardoned, or discharged;

31 [(iv)] (VI) the number of [eligible persons and noneligible persons]  
32 INMATES evaluated at the Institution FOR EACH OF THE PATUXENT PROGRAMS;

33 [(v)] (VII) the decisions of the Board of Review to grant leave to  
34 [eligible persons] PATUXENT PROGRAM INMATES;

1 [(vi)] (VIII) the number of rearrests, reconvictions, reincarcerations,  
2 and parole violations of individuals [formerly confined at the Institution] RELEASED  
3 FROM INCARCERATION THROUGH A PATUXENT PROGRAM;

4 [(vii)] (IX) the number of eligible persons [confined at the  
5 Institution] who are REMOVED FROM EACH PATUXENT PROGRAM AND returned to  
6 the Division of Correction [for major violations of the Institution's disciplinary rules];

7 [(viii)] (X) [information on the type of major violation  
8 necessitating] A SUMMARY OF THE REASONS UNDERLYING an individual's transfer to  
9 the Division of Correction as described in item [(vi)] (IX) of this paragraph;

10 [(ix)] (XI) information on educational programs and community  
11 reentry activities; and

12 [(x)] (XII) any remarks and suggestions the Director considers  
13 necessary to advance the interests of the Institution.

14 (3) The Director shall verify the report required by this subsection.

15 (4) Subject to § 2-1246 of the State Government Article, the Governor  
16 shall submit to the General Assembly the report required under this subsection and  
17 any recommendation that the Governor considers expedient.

18 (5) The Secretary shall adopt regulations regarding the annual report  
19 required under this subsection.

20 4-213.

21 (A) AN INMATE CONFINED AT THE INSTITUTION SHALL BE RELEASED UNDER  
22 MANDATORY SUPERVISION, AS DEFINED IN § 7-101 OF THIS ARTICLE, IN THE SAME  
23 MANNER AND SUBJECT TO THE SAME CONDITIONS AS IF THE INMATE WERE BEING  
24 RELEASED FROM A CORRECTIONAL FACILITY IN THE DIVISION OF CORRECTION.

25 (B) THE DIRECTOR MAY ESTABLISH SPECIAL PROGRAMS OR PROJECTS FOR  
26 DIMINUTION CREDIT AWARD TO THE SAME EXTENT THAT SUCH CREDITS MAY BE  
27 AWARDED IN THE DIVISION OF CORRECTION.

28 (C) THE DIRECTOR MAY RESTORE TO INMATES AT PATUXENT INSTITUTION  
29 ANY DIMINUTION CREDITS RESCINDED UPON ADJUDICATION OF VIOLATION OF  
30 INSTITUTIONAL DISCIPLINARY RULES TO THE SAME EXTENT AS SUCH CREDITS MAY  
31 BE RESTORED BY THE COMMISSIONER OF CORRECTION TO INMATES IN THE  
32 DIVISION.

33 (D) THE DIRECTOR MAY IMPOSE SPECIAL TERMS AND CONDITIONS ON ANY  
34 INMATE RELEASED ON MANDATORY SUPERVISION FROM THE INSTITUTION.

35 (E) IF THE SECRETARY REASSIGNS SUPERVISORY RESPONSIBILITY OF A  
36 MANDATORY RELEASEE FROM THE DIVISION OF PAROLE AND PROBATION TO THE  
37 INSTITUTION IN ACCORDANCE WITH § 2-117 OF THIS ARTICLE, THE SECRETARY MAY

1 ALSO REASSIGN THE AUTHORITY TO REVOKE MANDATORY SUPERVISION RELEASE  
2 TO THE BOARD OF REVIEW.

3 4-301.

4 (a) (1) The DIRECTOR MAY REQUEST THAT THE Commissioner [may] refer  
5 an inmate to the Institution for evaluation as to whether the inmate is an eligible  
6 person if the inmate:

7 (i) is serving a sentence of imprisonment following conviction of a  
8 crime;

9 (ii) has more than 3 years remaining to serve on a sentence;

10 (iii) has not been evaluated by or confined at the Institution within  
11 the preceding 3 years;

12 (iv) is not disqualified from being an eligible person under §  
13 4-101(e)(2) of this title; and

14 (v) meets the eligibility criteria that the Secretary establishes  
15 under § 4-208(b) of this title.

16 (2) The REQUEST THAT THE Commissioner [may] refer an inmate to the  
17 Institution SHALL BE BASED:

18 (i) on recommendation of the sentencing court;

19 (ii) on application by the inmate or the State's Attorney of the  
20 county in which the inmate was last convicted; or

21 (iii) on the Commissioner's own initiative.

22 (3) THE COMMISSIONER SHALL PROMPTLY REFER ANY INMATE  
23 REQUESTED FOR EVALUATION BY THE DIRECTOR UNLESS THE COMMISSIONER  
24 DETERMINES THAT SUCH A REFERRAL WILL CONSTITUTE A SECURITY RISK.

25 4-304.

26 [(a) An] UNLESS PREVIOUSLY RELEASED ON PAROLE OR MANDATORY  
27 SUPERVISION, AN inmate confined at the Institution shall be released on expiration of  
28 sentence [or under mandatory supervision, as defined in § 7-101 of this article, in the  
29 same manner and subject to the same conditions as if the inmate were being released  
30 from a correctional facility in the Division of Correction.

31 (b) The Director shall notify the Commissioner 30 days before each release].

32 4-306.

33 (c) (1) In this subsection, "major violation" includes:

- 1 (i) escape from parole, work release, or leave;
- 2 (ii) failure to return from parole, work release, or leave within 1  
3 hour of the time due, unless the failure to return was due to causes beyond the control  
4 of the eligible person;
- 5 (iii) commission of a new crime, other than a minor traffic violation,  
6 while on parole, work release, or leave;
- 7 (iv) commission of a [major] CATEGORY I violation of the  
8 [Institution's] DEPARTMENT'S disciplinary rules; AND
- 9 [(v) violation of any parole, work release, or leave rule not  
10 categorized as a minor violation under the regulations of the Institution; and]
- 11 [(vi) (V) use of a controlled dangerous substance that the eligible  
12 person is not entitled to use under the laws of the State.

13 (2) Except as provided in paragraph (3) of this subsection, if an eligible  
14 person commits a major violation while on parole, work release, or leave, the eligible  
15 person shall be confined to the Institution and shall be ineligible for parole, work  
16 release, or leave for at least 6 months.

17 (3) If the Board of Review or the Secretary determines that a major  
18 violation was severe enough to warrant removing an eligible person from the  
19 Institution, the eligible person may be removed from the Institution and returned to  
20 the Division of Correction to serve the remainder of the eligible person's original  
21 sentence.

22 (4) If an eligible person commits a second major violation while on  
23 parole, work release, or leave, the eligible person shall be removed from the  
24 Institution and returned to the Division of Correction to serve the remainder of the  
25 eligible person's original sentence.

26 4-401.

27 (a) In this section, "Youth Program" means the Patuxent Institution Youth  
28 Program.

29 (b) There is a Patuxent Institution Youth Program.

30 (c) This section applies to an individual under the age of 21 years who is  
31 sentenced to a term of imprisonment of 3 years or more.

32 (d) At sentencing, a court may refer an individual to the Institution for  
33 evaluation.

34 (e) The Director shall:

35 (1) review recommendations of a court for admission of an individual to  
36 the Youth Program; and

1 (2) admit or deny admission of an individual based on the criteria for  
2 admission established under subsection [(i)] (J) of this section.

3 (F) AN INMATE'S STATUS IN THE YOUTH PROGRAM SHALL BE REVIEWED BY  
4 THE BOARD OF REVIEW ON AN ANNUAL BASIS.

5 (G) THE BOARD OF REVIEW MAY GRANT AN INMATE IN THE YOUTH PROGRAM  
6 LEAVE, WORK OR SCHOOL RELEASE, OR PAROLE ACCORDING TO THE SAME  
7 PROCEDURES AND WITH THE SAME NOTICE TO VICTIMS AS REQUIRED WITH  
8 RESPECT TO THE ELIGIBLE PERSON PROGRAM.

9 [(f)] (H) If an individual is transferred to the Youth Program under this  
10 section, the duration of the transfer to the Institution shall terminate when:

11 (1) the Director orders the individual transferred to the Division of  
12 Correction;

13 (2) THE BOARD OF REVIEW ORDERS THE INDIVIDUAL TRANSFERRED TO  
14 THE DIVISION OF CORRECTION;

15 [(2)] (3) with the approval of the Secretary, the Board of Review orders  
16 the individual paroled; or

17 [(3)] (4) the individual completes the individual's term of confinement as  
18 provided by law.

19 [(g)] (I) An individual who is transferred to the Youth Program as provided  
20 under this section is deemed to be committed to the custody of and subject to the  
21 jurisdiction of the Institution.

22 [(h) An individual's transfer to the Youth Program does not affect the  
23 individual's eligibility for diminution credits or other privileges available by law to an  
24 individual sentenced to the custody of the Division of Correction or a local correctional  
25 facility.]

26 [(i)] (J) (1) Regulations adopted by the Secretary under § 4-208 of this title  
27 shall include regulations governing the management and operation of the Youth  
28 Program, including criteria for admission to the Youth Program.

29 (2) Regulations establishing criteria for admission to the Youth Program  
30 shall:

31 (i) be consistent with this title and any other statutory  
32 requirements; and

33 (ii) include criteria regarding:

34 1. the individual's age;

35 2. the individual's mental and physical condition;

1  
2 Program;

3. the individual's amenability to treatment in the Youth

3  
4 participation in the crime; and

4. the nature of the individual's crime and the individual's

5

5. the public safety.

6 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take  
7 effect October 1, 2002.