

**Department of Legislative Services**  
Maryland General Assembly  
2002 Session

**FISCAL NOTE**

House Bill 1151

(Chairman, Judiciary Committee)

(Departmental – Public Safety and Correctional Services)

Judiciary

Judicial Proceedings

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

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This departmental bill makes several changes to provisions relating to the operations of the Patuxent Institution.

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**Fiscal Summary**

**State Effect:** The bill's changes are not expected to affect the finances or budgetary needs of the Patuxent Institution, the Division of Correction (DOC), or the Department of Public Safety and Correctional Services (DPSCS). Any operational efficiencies that may accrue within DPSCS should not have any significant fiscal impact.

**Local Effect:** None.

**Small Business Effect:** DPSCS has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment.

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**Analysis**

**Bill Summary:** This bill expands the scope of purpose for the Patuxent Institution's remedial programs and services and expands the scope of information that is submitted in the director's annual report. Specifically, the bill makes changes to provisions relating to the operations of the Patuxent Institution by:

- expanding program eligibility for remediation and services beyond youthful offenders to mentally ill persons and "other eligible persons;"

- altering the scope of information in Patuxent's annual report most significantly by: (1) including the number of inmates who are admitted to each program, and eliminating the number of inmates who escape; (2) including the number of DOC inmates receiving care during the year for mental health conditions; (3) including the number of persons evaluated by program; and (4) including the number of eligible persons who are removed from each program and returned to DOC, rather than those who were returned for major disciplinary violations;
- providing procedures for the mandatory supervision release of inmates from Patuxent to be in the same manner and subject to the same conditions as releases from DOC custody;
- authorizing the Director of Patuxent to establish a special programs or projects diminution credit awards program similar to the existing program at DOC;
- authorizing the Director of Patuxent to restore rescinded diminution credits to inmates upon adjudication of violation of institutional disciplinary rules to the same extent as such credits may be restored by the Commissioner of Correction to inmates in DOC;
- reassigning responsibility for the intake of inmates from the Commissioner of Correction to the Director of Patuxent;
- allowing the Director of Patuxent to impose special terms and conditions on any inmate released on mandatory supervision from Patuxent;
- providing that, if the Secretary of DPSCS reassigns supervisory responsibility of a mandatory releasee from the Division of Parole and Probation to Patuxent in accordance with applicable provisions, the Secretary may also reassign the authority to revoke mandatory supervision release to the Board of Review;
- allowing the termination of a transfer from a DOC facility to Patuxent upon an order from the Board of Review;
- providing that an inmate's status in the youth program must be reviewed by the Board of Review on an annual basis, and that the board may grant an inmate in the youth program leave, work or school release, or parole according to the same procedures and notice as required with under the eligible person program; and
- providing that the Commissioner of Correction must promptly refer any inmate requested for evaluation by the Director of Patuxent unless the commissioner determines that such a referral will constitute a security risk.

**Current Law:** The purpose of the Patuxent Institution is to provide remediation programs and services to youthful eligible persons, including a range of program alternatives indicated by the current state of knowledge to be appropriate and effective for the population being served.

“Eligible person” means an individual who: (1) has been convicted of a crime and is serving a sentence of imprisonment with at least three years remaining on the sentence; (2) has an intellectual impairment or emotional imbalance; (3) is likely to respond favorably to the programs and services that the institution provides; (4) can better respond to remediation through those programs and services than by other incarceration; and (5) meets the eligibility criteria that the Secretary establishes. Eligible person does not include an individual who: (1) is serving two or more sentences of imprisonment for life for murder; (2) is serving one or more sentences of imprisonment for life for first degree murder when a court or jury has found, beyond a reasonable doubt, that one or more aggravating circumstances existed; or (3) has been convicted of first degree murder, first degree rape, or a first degree sexual offense, unless the sentencing judge, at the time of sentencing or in the exercise of the judge’s revisory power under the Maryland Rules, recommends that the individual be referred to the institution for evaluation.

“Remediation” means treatment for specific areas of mental and social deficiencies that are highly related to criminal behavior.

The Patuxent Institution is required to establish and maintain, as an integral part of the programs, an effective research, development, and training effort to evaluate and recommend improvements on an ongoing basis. No more than 350 eligible persons may be enrolled in the eligible person remediation program. The institution may provide other remediation programs that the Secretary of Public Safety and Correctional Services designates.

On or before October 31 of each year, the Director of Patuxent is required to submit an annual report to the Secretary and the Governor. The annual report must state:

- the institution’s expenses, receipts, disbursements, condition, and progress;
- the number of inmates and each inmate’s age, sex, race, place of birth and conviction, crime, and term of confinement;
- the number of inmates who escape, are pardoned, or discharged;
- the number of eligible persons and noneligible persons evaluated at the institution;
- the decisions of the Board of Review to grant leave to eligible persons;
- the number of rearrests, reconvictions, reincarcerations, and parole violations of individuals formerly confined at the institution;
- the number of eligible persons confined at the institution who are returned to the Division of Correction for major violations of the institution’s disciplinary rules;
- information on the type of major violation necessitating an individual’s transfer to the Division of Correction for various violations;

- information on educational programs and community reentry activities; and
- any remarks and suggestions the director considers necessary to advance the interests of the institution.

The Commissioner of Correction may refer an inmate to the institution for evaluation as to whether the inmate is an eligible person if the inmate: (1) is serving a sentence of imprisonment following conviction of a crime; (2) has more than three years remaining to serve on a sentence; (3) has not been evaluated by or confined at the institution within the preceding three years; (4) is not disqualified from being an eligible person; and (5) meets the eligibility criteria that the Secretary establishes. The commissioner may refer an inmate to the institution on recommendation of the sentencing court, on application by the inmate or a certain State's Attorney, or on the commissioner's own initiative.

An inmate confined at Patuxent must be released on expiration of sentence or under mandatory supervision in the same manner and subject to the same conditions as if the inmate were being released from a correctional facility in the Division of Correction. The director must notify the commissioner 30 days before each release.

A major violation for a released person includes: (1) escape from parole, work release, or leave; (2) failure to return from parole, work release, or leave within one hour of the time due, unless the failure to return was due to causes beyond the control of the eligible person; (3) commission of a new crime, other than a minor traffic violation, while on parole, work release, or leave; (4) commission of a major violation of the institution's disciplinary rules; (5) violation of any parole, work release, or leave rule not categorized as a minor violation under the regulations of the institution; and (6) use of an illegal controlled dangerous substance. With a certain exception, if an eligible person commits a major violation while on parole, work release, or leave, the person must be confined to the institution and is ineligible for parole, work release, or leave for at least six months.

If the Board of Review or the Secretary determines that a major violation was severe enough to warrant removing an eligible person from the institution, the eligible person may be removed from the institution and returned to DOC to serve the remainder of the original sentence. If the person commits a second major violation while on parole, work release, or leave, the eligible person must be removed from the institution and returned to DOC to serve the remainder of the original sentence.

Patuxent's Youth Program is for individuals under 21 years of age who are sentenced to a term of imprisonment of 3 years or more. An individual who is transferred to the youth program is deemed to be committed to the custody of and subject to the jurisdiction of Patuxent.

If an individual is transferred to the youth program, the duration of the transfer to Patuxent must terminate when: (1) the director orders the individual transferred to DOC; (2) with the approval of the Secretary, the Board of Review orders the individual paroled; or (3) the individual completes his or her term of confinement. An individual's transfer to the youth program does not affect the individual's eligibility for diminution credits or other privileges.

**Background:** The Patuxent Institution houses men and women convicted of crimes and sentenced to the Maryland Division of Correction. However, the institution is not part of the division. Instead, it is an independent unit of DPSCS focusing on offender remediation and treatment. Separate populations are incarcerated at Patuxent within the following:

- Eligible Person (EP) Program -- an evolution of the original Patuxent defective delinquent program that focuses on group therapy through a multidiscipline approach.
- Patuxent Youth Program -- a program designed to meet the needs of the offender under the age of 21.
- Correctional Mental Health Center (CMHC-J) -- serving the needs of convicted offenders with acute mental health needs and transitional mental health needs, as well as the offender with mental health needs preparing to return to the community.
- Substance Abuse Treatment Center -- separate from the substance abuse components of the other Patuxent programs, the Regimented Offender Treatment Center (ROTC) is a part of the Division of Parole and Probation's Correctional Options Program that addresses the in-patient substance abuse needs of non-violent offenders.
- Division of Correction Annex -- technical parole violators accused of violating the conditions of release by conduct other than a new crime await a revocation hearing at Patuxent.

The nine-member Patuxent Board of Review consists of the director, the two associate directors, the warden, and five members of the public, one of whom is a member of a victims' rights organization, appointed by the Governor with the advice and consent of the Senate. Generally the board serves as a parole board for the institution and also decides on matters relating to work release and leave.

The Secretary of DPSCS, by directive in 1997, centralized the delivery of mental health services within the department and gave responsibility for delivery of those services to the Director of Patuxent. Patuxent established a unit for the mentally ill in acute

condition and the chronically depressed who represented a suicide risk. This unit was developed to serve the inmate population throughout DOC. This acute unit serves to complement the psychiatric and psychological services available at DOC facilities.

This bill seeks to codify this mental health care responsibility, as well as to address some procedural issues applicable to other Patuxent programs. The changes to procedural issues relating to mandatory supervision release and the youth program make the statutory system applicable to Patuxent the same as the system in place for DOC. The bill also creates a statutory role for the Director of Patuxent with respect to bringing in inmates for evaluation, a role now within the statutory purview of the Commissioner of Correction. In addition, the bill's other changes reflect updated and standardized references governing rules of conduct for inmates by eliminating the defunct terminology of minor and major violations.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Department of Public Safety and Correctional Services,  
Department of Legislative Services

**Fiscal Note History:** First Reader - March 3, 2002  
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Analysis by: Guy G. Cherry

Direct Inquiries to:  
John Rixey, Coordinating Analyst  
(410) 946-5510  
(301) 970-5510