
By: **Delegates Cadden, Barkley, Bates, Bohanan, Branch, Conway, Niemann,
and Paige**

Introduced and read first time: February 11, 2004

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Commission on Correctional Standards - Sanctions**

3 FOR the purpose of requiring the Maryland Commission on Correctional Standards to
4 send a letter of reprimand if the Commission determines that a correctional
5 facility is in violation of certain minimum mandatory standards; specifying the
6 contents of the letter; requiring the Commission to assess a monetary fine
7 against a correctional facility under certain circumstances; requiring the
8 Commission to consider certain factors when determining the amount of the
9 fine; providing that the amount of the fine shall increase for each week, up to a
10 certain number of weeks, if a correctional facility fails to meet the minimum
11 mandatory standards; requiring the Commission to conduct a full standards and
12 performance audit of a correctional facility under certain circumstances;
13 requiring the Commission to examine certain issues when conducting the audit;
14 requiring that a correctional facility reimburse the Commission for certain
15 expenses incurred during an audit; requiring the Commission to send a certain
16 letter and conduct an unannounced inspection following the completion of an
17 audit; requiring the Commission to seek a court order against a correctional
18 facility or close all or part of a correctional facility under certain circumstances;
19 and generally relating to the sanctions that the Maryland Commission on
20 Correctional Standards can impose on a correctional facility.

21 BY repealing and reenacting, with amendments,
22 Article - Correctional Services
23 Section 8-114
24 Annotated Code of Maryland
25 (1999 Volume and 2003 Supplement)

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

1

Article - Correctional Services

2 8-114.

3 (A) (1) IF THE COMMISSION DETERMINES THAT A CORRECTIONAL FACILITY
4 IS IN VIOLATION OF THE MINIMUM MANDATORY STANDARDS, THE COMMISSION
5 SHALL SEND A LETTER OF REPRIMAND TO THE CORRECTIONAL FACILITY.

6 (2) THE LETTER OF REPRIMAND SHALL STATE:

7 (I) WHICH MINIMUM MANDATORY STANDARDS THE
8 CORRECTIONAL FACILITY HAS VIOLATED;

9 (II) THE TIME, TO BE DETERMINED BY THE COMMISSION, THAT
10 THE CORRECTIONAL FACILITY HAS TO ADDRESS THE VIOLATIONS; AND

11 (III) THE DATE THAT THE COMMISSION SHALL REINSPECT THE
12 CORRECTIONAL FACILITY TO DETERMINE IF THE CORRECTIONAL FACILITY HAS
13 COMPLIED WITH THE MINIMUM MANDATORY STANDARDS.

14 (3) THE COMMISSION SHALL SEND A COPY OF THE LETTER OF
15 REPRIMAND TO THE EXECUTIVE AND LEGISLATIVE BODY RESPONSIBLE FOR THE
16 CORRECTIONAL FACILITY.

17 (B) (1) IF, AFTER SENDING A LETTER OF REPRIMAND AND REINSPECTING A
18 CORRECTIONAL FACILITY UNDER SUBSECTION (A) OF THIS SECTION, THE
19 COMMISSION DETERMINES THAT THE CORRECTIONAL FACILITY IS IN VIOLATION OF
20 THE MINIMUM MANDATORY STANDARDS, THE COMMISSION SHALL ASSESS A
21 MONETARY FINE AGAINST THE CORRECTIONAL FACILITY.

22 (2) (I) THE AMOUNT OF THE FINE SHALL BE DETERMINED BY THE
23 COMMISSION.

24 (II) WHEN DETERMINING THE AMOUNT OF THE FINE, THE
25 COMMISSION SHALL CONSIDER:

26 1. THE SEVERITY OF THE VIOLATION;

27 2. THE SIZE AND BUDGET OF THE FACILITY; AND

28 3. WHETHER THE FACILITY HAS VIOLATED THE SAME
29 MINIMUM MANDATORY STANDARDS WITHIN THE LAST 5 YEARS.

30 (III) THE AMOUNT OF THE FINE SHALL INCREASE FOR EACH WEEK,
31 UP TO A MAXIMUM OF 4 WEEKS, THAT THE CORRECTIONAL FACILITY FAILS TO MEET
32 THE MINIMUM MANDATORY STANDARDS.

33 (3) ANY FINES COLLECTED BY THE COMMISSION SHALL REVERT TO THE
34 GENERAL OPERATING FUND OF THE STATE.

1 (4) IF A CORRECTIONAL FACILITY FAILS TO PAY A FINE ASSESSED BY
2 THE COMMISSION, THE COMMISSION SHALL PETITION A CIRCUIT COURT WITH
3 VENUE OVER THE PROCEEDING TO COMPEL COMPLIANCE.

4 (5) THE COMMISSION SHALL NOTIFY THE EXECUTIVE AND LEGISLATIVE
5 BODY RESPONSIBLE FOR THE CORRECTIONAL FACILITY WHEN THE COMMISSION
6 IMPOSES A FINE OR A CORRECTIONAL FACILITY FAILS TO PAY A FINE.

7 (C) (1) IF, AFTER THE COMMISSION HAS ASSESSED 4 WEEKS OF FINES
8 AGAINST A CORRECTIONAL FACILITY UNDER SUBSECTION (B) OF THIS SECTION, THE
9 COMMISSION DETERMINES THAT THE CORRECTIONAL FACILITY IS IN VIOLATION OF
10 THE MINIMUM MANDATORY STANDARDS, THE COMMISSION SHALL CONDUCT A FULL
11 STANDARDS AND PERFORMANCE AUDIT OF THE CORRECTIONAL FACILITY.

12 (2) WHEN CONDUCTING A FULL STANDARDS AND PERFORMANCE AUDIT
13 OF A CORRECTIONAL FACILITY, THE COMMISSION SHALL EXAMINE:

14 (I) THE PHYSICAL CONDITION OF THE CORRECTIONAL FACILITY;

15 (II) THE SAFETY AND TREATMENT OF INMATES AT THE
16 CORRECTIONAL FACILITY;

17 (III) THE SAFETY OF CORRECTIONAL FACILITY PERSONNEL;

18 (IV) WHETHER THE CORRECTIONAL FACILITY HAS
19 ADMINISTRATIVE PROCEDURES IN PLACE AS REQUIRED BY THE MINIMUM
20 MANDATORY STANDARDS; AND

21 (V) WHETHER THE CORRECTIONAL FACILITY IS FOLLOWING THE
22 REQUIRED ADMINISTRATIVE PROCEDURES.

23 (3) WHEN CONDUCTING A FULL STANDARDS AND PERFORMANCE
24 AUDIT, THE COMMISSION SHALL HAVE UNRESTRICTED ACCESS TO THE PERSONNEL
25 AND RECORDS OF THE CORRECTIONAL FACILITY.

26 (4) (I) IF THE COMMISSION LACKS THE EXPERTISE NECESSARY TO
27 PERFORM A PART OF THE FULL STANDARDS AND PERFORMANCE AUDIT, THE
28 COMMISSION MAY CONTRACT WITH AN OUTSIDE EXPERT.

29 (II) IF THE COMMISSION NEEDS TO CONTRACT WITH AN OUTSIDE
30 EXPERT, THE CORRECTIONAL FACILITY THAT IS BEING AUDITED SHALL REIMBURSE
31 THE COMMISSION FOR THE COST OF OBTAINING THE EXPERT.

32 (5) (I) AFTER COMPLETING A FULL STANDARDS AND PERFORMANCE
33 AUDIT, THE COMMISSION SHALL SEND A LETTER TO THE CORRECTIONAL FACILITY.

34 (II) THE LETTER SHALL CONTAIN:

1 1. A COPY OF THE AUDIT FINDINGS, INCLUDING DETAILS ON
2 ALL AREAS WHERE THE CORRECTIONAL FACILITY FAILS TO COMPLY WITH THE
3 MINIMUM MANDATORY STANDARDS;

4 2. A STATEMENT OF WHAT ACTIONS THE CORRECTIONAL
5 FACILITY MUST TAKE IN ORDER TO COMPLY WITH THE AUDIT FINDINGS;

6 3. A DATE WHEN THE CORRECTIONAL FACILITY MUST
7 COMPLY WITH THE AUDIT FINDINGS; AND

8 4. A STATEMENT THAT THE COMMISSION WILL CONDUCT AN
9 UNANNOUNCED INSPECTION OF THE CORRECTIONAL FACILITY WITHIN A
10 REASONABLE AMOUNT OF TIME AFTER THE DATE OF COMPLIANCE AND THAT IF THE
11 CORRECTIONAL FACILITY FAILS TO COMPLY, THE COMMISSION CAN SEEK A COURT
12 ORDER REQUIRING COMPLIANCE OR ORDER ALL OR PART OF THE CORRECTIONAL
13 FACILITY TO CEASE OPERATIONS.

14 (III) THE COMMISSION SHALL SEND A COPY OF THE LETTER TO THE
15 EXECUTIVE AND LEGISLATIVE BODY RESPONSIBLE FOR THE CORRECTIONAL
16 FACILITY.

17 (6) WITHIN A REASONABLE TIME AFTER THE DATE OF COMPLIANCE,
18 THE COMMISSION SHALL CONDUCT AN UNANNOUNCED INSPECTION TO VERIFY
19 THAT THE CORRECTIONAL FACILITY HAS COMPLIED WITH THE AUDIT FINDINGS.

20 [(a)] (D) (1) If, after PERFORMING AN AUDIT AND UNANNOUNCED
21 INSPECTION UNDER SUBSECTION (C) OF THIS SECTION AND holding a hearing on the
22 issue, the Commission determines that a correctional facility [is in violation of the
23 minimum mandatory standards] HAS NOT COMPLIED WITH THE AUDIT FINDINGS,
24 the Commission [may] SHALL:

25 (I) PETITION A CIRCUIT COURT WITH VENUE OVER THE
26 PROCEEDING FOR A COURT ORDER REQUIRING THE CORRECTIONAL FACILITY TO
27 COMPLY WITH THE AUDIT FINDINGS; OR

28 (II) issue an order to cease operation of the correctional facility or
29 any of its correctional elements, procedures, or functions.

30 [(b)] (2) The Commission shall provide to a correctional facility reasonable
31 notice of a hearing under [subsection (a) of this section] PARAGRAPH (1) OF THIS
32 SUBSECTION.

33 [(c)] (3) The Commission may subpoena witnesses and hold public hearings
34 in accordance with Title 10, Subtitle 2 of the State Government Article before making
35 a final decision on [the closure of] WHETHER TO SEEK A COURT ORDER OR CLOSE a
36 correctional facility or any of its correctional elements, procedures, or functions.

37 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
38 October 1, 2004.