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

Introduced and read first time: February 11, 2004

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 23, 2004

CHAPTER _____

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

24 BY repealing and reenacting, with amendments,
25 Article - Correctional Services
26 Section 8-114

1 Annotated Code of Maryland
2 (1999 Volume and 2003 Supplement)

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

5 **Article - Correctional Services**

6 8-114.

7 (A) (1) IF THE COMMISSION DETERMINES THAT A CORRECTIONAL FACILITY
8 IS IN VIOLATION OF THE MINIMUM MANDATORY STANDARDS, THE COMMISSION
9 SHALL SEND A ~~LETTER OF REPRIMAND~~ COMPLIANCE PLAN TO THE CORRECTIONAL
10 FACILITY.

11 (2) ~~THE LETTER OF REPRIMAND~~ COMPLIANCE PLAN SHALL STATE:

12 (I) WHICH MINIMUM MANDATORY STANDARDS THE
13 CORRECTIONAL FACILITY HAS VIOLATED;

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

16 (III) THE DATE THAT THE COMMISSION SHALL REINSPECT THE
17 CORRECTIONAL FACILITY TO DETERMINE IF THE CORRECTIONAL FACILITY HAS
18 COMPLIED WITH THE MINIMUM MANDATORY STANDARDS.

19 (3) THE COMMISSION SHALL SEND A COPY OF THE ~~LETTER OF~~
20 ~~REPRIMAND~~ COMPLIANCE PLAN TO THE EXECUTIVE AND LEGISLATIVE BODY
21 RESPONSIBLE FOR THE CORRECTIONAL FACILITY.

22 (B) (1) IF, AFTER SENDING A ~~LETTER OF REPRIMAND~~ COMPLIANCE PLAN
23 AND REINSPECTING A CORRECTIONAL FACILITY UNDER SUBSECTION (A) OF THIS
24 SECTION, THE COMMISSION DETERMINES THAT THE CORRECTIONAL FACILITY IS IN
25 VIOLATION OF THE MINIMUM MANDATORY STANDARDS, THE COMMISSION SHALL
26 ~~ASSESS A MONETARY FINE AGAINST THE CORRECTIONAL FACILITY.~~

27 ~~(2) (I) THE AMOUNT OF THE FINE SHALL BE DETERMINED BY THE~~
28 ~~COMMISSION.~~

29 ~~(II) WHEN DETERMINING THE AMOUNT OF THE FINE, THE~~
30 ~~COMMISSION SHALL CONSIDER:~~

31 ~~1. THE SEVERITY OF THE VIOLATION;~~

32 ~~2. THE SIZE AND BUDGET OF THE FACILITY; AND~~

33 ~~3. WHETHER THE FACILITY HAS VIOLATED THE SAME~~
34 ~~MINIMUM MANDATORY STANDARDS WITHIN THE LAST 5 YEARS.~~

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

4 (3) ~~ANY FINES COLLECTED BY THE COMMISSION SHALL REVERT TO THE~~
5 ~~GENERAL OPERATING FUND OF THE STATE.~~

6 (4) ~~IF A CORRECTIONAL FACILITY FAILS TO PAY A FINE ASSESSED BY~~
7 ~~THE COMMISSION, THE COMMISSION SHALL PETITION A CIRCUIT COURT WITH~~
8 ~~VENUE OVER THE PROCEEDING TO COMPEL COMPLIANCE.~~

9 (5) ~~THE COMMISSION SHALL NOTIFY THE EXECUTIVE AND LEGISLATIVE~~
10 ~~BODY RESPONSIBLE FOR THE CORRECTIONAL FACILITY WHEN THE COMMISSION~~
11 ~~IMPOSES A FINE OR A CORRECTIONAL FACILITY FAILS TO PAY A FINE. SEND A~~
12 ~~LETTER OF REPRIMAND TO THE CORRECTIONAL FACILITY.~~

13 (2) THE LETTER OF REPRIMAND SHALL STATE:

14 (I) WHICH MINIMUM STANDARDS THE CORRECTIONAL FACILITY
15 HAS VIOLATED;

16 (II) THE TIME, TO BE DETERMINED BY THE COMMISSION BUT NOT
17 TO EXCEED 60 DAYS, THAT THE CORRECTIONAL FACILITY HAS TO ADDRESS THE
18 VIOLATIONS; AND

19 (III) THE DATE THAT THE COMMISSION WILL REINSPECT THE
20 CORRECTIONAL FACILITY TO DETERMINE IF THE CORRECTIONAL FACILITY HAS
21 COMPLIED WITH THE MINIMUM MANDATORY STANDARDS.

22 (3) THE COMMISSION SHALL SEND A COPY OF THE LETTER OF
23 REPRIMAND TO THE EXECUTIVE AND LEGISLATIVE BODY RESPONSIBLE FOR THE
24 CORRECTIONAL FACILITY.

25 (C) (1) ~~IF, AFTER THE COMMISSION HAS ASSESSED 4 WEEKS OF FINES~~
26 ~~AGAINST SENT A LETTER OF REPRIMAND TO A CORRECTIONAL FACILITY UNDER~~
27 ~~SUBSECTION (B) OF THIS SECTION AND REINSPECTED THE FACILITY, THE~~
28 ~~COMMISSION DETERMINES THAT THE CORRECTIONAL FACILITY IS IN VIOLATION OF~~
29 ~~THE MINIMUM MANDATORY STANDARDS, THE COMMISSION SHALL CONDUCT A FULL~~
30 ~~STANDARDS AND PERFORMANCE AUDIT OF THE CORRECTIONAL FACILITY.~~

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

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

34 (II) THE SAFETY AND TREATMENT OF INMATES AT THE
35 CORRECTIONAL FACILITY;

36 (III) ~~THE SAFETY OF CORRECTIONAL FACILITY PERSONNEL;~~

1 ~~(V)~~ WHETHER THE CORRECTIONAL FACILITY HAS
2 ~~ADMINISTRATIVE POLICIES AND PROCEDURES~~ IN PLACE AS REQUIRED BY THE
3 MINIMUM MANDATORY STANDARDS; AND

4 ~~(V)~~ (IV) WHETHER THE CORRECTIONAL FACILITY IS FOLLOWING
5 THE REQUIRED ~~ADMINISTRATIVE POLICIES AND PROCEDURES~~.

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

9 (4) (I) IF THE COMMISSION LACKS THE EXPERTISE NECESSARY TO
10 PERFORM A PART OF THE FULL STANDARDS AND PERFORMANCE AUDIT, THE
11 COMMISSION MAY ~~CONTRACT WITH AN OUTSIDE EXPERT~~ OBTAIN ASSISTANCE FROM
12 SOURCES WITH EXPERTISE IN THE SPECIFIC STANDARD.

13 (II) IF THE COMMISSION NEEDS TO ~~CONTRACT WITH AN OUTSIDE~~
14 ~~EXPERT OBTAIN ASSISTANCE~~, THE CORRECTIONAL FACILITY THAT IS BEING
15 AUDITED SHALL REIMBURSE THE COMMISSION FOR ~~THE ANY COST OF OBTAINING~~
16 THE EXPERT INCURRED.

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

19 (II) THE LETTER SHALL CONTAIN:

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

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

25 3. A DATE WHEN THE CORRECTIONAL FACILITY MUST
26 COMPLY WITH THE AUDIT FINDINGS; AND

27 4. A STATEMENT THAT THE COMMISSION WILL CONDUCT AN
28 UNANNOUNCED INSPECTION OF THE CORRECTIONAL FACILITY WITHIN A
29 REASONABLE AMOUNT OF TIME AFTER THE DATE ~~OF~~ SPECIFIED FOR COMPLIANCE
30 AND THAT IF THE CORRECTIONAL FACILITY FAILS TO COMPLY, THE COMMISSION
31 ~~CAN~~ MAY SEEK A COURT ORDER REQUIRING COMPLIANCE OR ORDER ALL OR PART
32 OF THE CORRECTIONAL FACILITY TO CEASE OPERATIONS.

33 (III) THE COMMISSION SHALL SEND A COPY OF THE LETTER TO THE
34 EXECUTIVE AND LEGISLATIVE BODY RESPONSIBLE FOR THE CORRECTIONAL
35 FACILITY.

36 (6) WITHIN A REASONABLE TIME AFTER THE DATE ~~OF~~ SPECIFIED FOR
37 COMPLIANCE, THE COMMISSION SHALL CONDUCT AN UNANNOUNCED INSPECTION

1 TO VERIFY THAT THE CORRECTIONAL FACILITY HAS COMPLIED WITH THE AUDIT
2 FINDINGS.

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

8 (I) PETITION A CIRCUIT COURT WITH VENUE OVER THE
9 PROCEEDING FOR A COURT ORDER REQUIRING THE CORRECTIONAL FACILITY TO
10 COMPLY WITH THE AUDIT FINDINGS; OR

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

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

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

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