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

Introduced and read first time: January 27, 2006

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Correctional Services - Adoption of Rules and Other Statements**

3 FOR the purpose of excluding certain guidelines, rules, and statements adopted by
4 the Division of Correction, the Division of Pretrial Detention and Services, and
5 the Patuxent Institution concerning inmates or detainees from the
6 requirements of the Administrative Procedure Act; making this Act an
7 emergency measure; and generally relating to the adoption of certain guidelines,
8 rules, regulations, and statements by certain units within the Department of
9 Public Safety and Correctional Services.

10 BY repealing and reenacting, with amendments,

11 Article - Correctional Services

12 Section 2-109, 3-205, and 4-208

13 Annotated Code of Maryland

14 (1999 Volume and 2005 Supplement)

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

17 **Article - Correctional Services**

18 2-109.

19 (a) The Secretary shall adopt regulations for the office of the Secretary.

20 (b) (1) The Secretary shall review regulations proposed by a unit in the
21 Department.

22 (2) The Secretary may approve, disapprove, or revise regulations
23 proposed by a unit in the Department.

24 (c) (1) Except as provided in paragraph (2) of this subsection, the Secretary
25 shall adopt regulations to govern the policies and management of correctional
26 facilities in the Division of Correction in accordance with Title 10, Subtitle 1 of the
27 State Government Article.

1 (2) Paragraph (1) of this subsection does not apply to a guideline, RULE,
2 OR OTHER STATEMENT, pertaining to:

3 (I) the routine internal management of correctional facilities in the
4 Division of Correction; OR

5 (II) THE CLASSIFICATION, DISCIPLINE, OR CONDUCT OF INMATES
6 IN THE DIVISION OF CORRECTION, THE DIVISION OF PRETRIAL DETENTION AND
7 SERVICES, OR THE PATUXENT INSTITUTION.

8 3-205.

9 (a) The Commissioner may adopt regulations for the operation and
10 maintenance of the units in the Division.

11 (b) The regulations shall provide for:

12 (1) the discipline and conduct of inmates, including the character of
13 punishments for violations of discipline; and

14 (2) the duties, discipline, and conduct of officers and other employees of
15 the units in the Division.

16 (c) The regulations may allow inmates of minimum security institutions to
17 provide services voluntarily to:

18 (1) governmental units; or

19 (2) charitable organizations as defined in § 6-101 of the Business
20 Regulation Article.

21 (D) THE REGULATIONS ADOPTED IN ACCORDANCE WITH SUBSECTION (B)(1)
22 OF THIS SECTION ARE NOT SUBJECT TO TITLE 10, SUBTITLE 1 OF THE STATE
23 GOVERNMENT ARTICLE.

24 4-208.

25 (a) The Secretary shall adopt regulations to carry out this title.

26 (b) [Notwithstanding] SUBJECT TO SUBSECTION (C) OF THIS SECTION,
27 NOTWITHSTANDING § 10-101(g)(2)(i) of the State Government Article, the
28 regulations adopted under this section, other than regulations pertaining only to
29 routine internal management of the Institution, shall comply with the Administrative
30 Procedure Act, including regulations that:

31 (1) govern criteria to determine eligibility for referral of an inmate to the
32 Institution;

33 (2) govern leave, work release, and parole from the Institution; and

1 (3) establish with specificity what constitutes a major violation of the
2 Institution's disciplinary rules.

3 (C) SUBSECTION (B) OF THIS SECTION DOES NOT APPLY TO GUIDELINES,
4 RULES, OR OTHER STATEMENTS PERTAINING TO:

5 (1) THE ROUTINE INTERNAL MANAGEMENT OF THE INSTITUTION; OR

6 (2) THE CLASSIFICATION, DISCIPLINE, OR CONDUCT OF INMATES IN
7 THE INSTITUTION.

8 SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency
9 measure, is necessary for the immediate preservation of the public health or safety,
10 has been passed by a ye and nay vote supported by three-fifths of all the members
11 elected to each of the two Houses of the General Assembly, and shall take effect from
12 the date it is enacted.