

# HOUSE BILL 1206

E4

71r0058

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

Introduced and read first time: February 21, 2007

Assigned to: Rules and Executive Nominations

Re-referred to: Judiciary, February 26, 2007

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Committee Report: Favorable

House action: Adopted

Read second time: March 17, 2007

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Correctional Services - Inmates and Detainees Who Are Pregnant or Have**  
3 **Newborn Child**

4 FOR the purpose of altering parole eligibility requirements for certain individuals  
5 detained or confined in a correctional facility; altering the requirements for  
6 special leave for certain inmates; establishing authority for female inmates or  
7 detainees to retain custody of newborn children under certain circumstances for  
8 participation in certain programs; transferring certain authority relating to  
9 inmates and detainees from the Division of Correction to the Department of  
10 Public Safety and Correctional Services; and generally relating to individuals  
11 detained or confined in a correctional facility who are pregnant or have a  
12 newborn child.

13 BY repealing and reenacting, with amendments,  
14 Article - Correctional Services  
15 Section 3-810, 7-301(a), and 9-601  
16 Annotated Code of Maryland  
17 (1999 Volume and 2006 Supplement)

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### EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



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

3 **Article – Correctional Services**

4 3–810.

5 (a) On the recommendation of treatment staff and with the approval of the  
6 managing official of a correctional facility in the Division, the Commissioner or Deputy  
7 Commissioner may grant special leave to an inmate to allow an inmate to participate  
8 in a special community or other meritorious program or activity within or outside of  
9 the State that the Commissioner and managing official believe:

- 10 (1) would benefit the inmate;
- 11 (2) would not be detrimental to the public; and
- 12 (3) would help rehabilitate the inmate.

13 (b) The Commissioner or Deputy Commissioner may grant special leave for  
14 the purpose of allowing an inmate to:

- 15 (1) attend an educational program;
- 16 (2) improve job skills;
- 17 (3) attend a trade licensing examination;
- 18 (4) be interviewed for employment;
- 19 (5) participate as a volunteer for a governmental unit in an activity  
20 that serves the general public;
- 21 (6) participate in athletic competition; [or]
- 22 (7) participate in a civic activity that benefits the inmate or the  
23 community; **OR**

24 **(8) PARTICIPATE IN A RESIDENTIAL OR NONRESIDENTIAL**  
25 **TREATMENT PROGRAM INCLUDING A PROGRAM FOR PREGNANT WOMEN OR A**  
26 **PROGRAM TO ESTABLISH BONDING BETWEEN MOTHERS AND NEWBORN**  
27 **CHILDREN.**

1           **(C) AN INMATE GRANTED LEAVE UNDER THIS SECTION MAY BE**  
2 **ALLOWED TO REMAIN OUTSIDE THE INSTITUTION FOR ANY PERIOD OF TIME**  
3 **CONSISTENT WITH PUBLIC SAFETY.**

4           **[(c)] (D)**     (1)    An inmate is not eligible for special leave under this section  
5 unless the managing official and Commissioner concur that positive attitudinal and  
6 growth patterns are being established.

7                         (2)    Special leave shall be issued in writing and signed personally by  
8 both the managing official and either the Commissioner or Deputy Commissioner.

9                         (3)    As a condition of granting special leave, the Commissioner may  
10 require that the inmate agree to waive the right to contest extradition proceedings.

11                        (4)    The Commissioner or Deputy Commissioner shall file the order  
12 granting special leave in the Division.

13 7-301.

14           (a)     (1)    Except as otherwise provided in this section, the Commission shall  
15 request that the Division of Parole and Probation make an investigation for inmates in  
16 a local correctional facility and the Division of Correction make an investigation for  
17 inmates in a State correctional facility that will enable the Commission to determine  
18 the advisability of granting parole to an inmate who:

19                                 (i)    has been sentenced under the laws of the State to serve a  
20 term of 6 months or more in a correctional facility; and

21                                 (ii)   has served in confinement one-fourth of the inmate's  
22 aggregate sentence.

23                         (2)    Except as provided in paragraph (3) of this subsection, or as  
24 otherwise provided by law or in a predetermined parole release agreement, an inmate  
25 is not eligible for parole until the inmate has served in confinement one-fourth of the  
26 inmate's aggregate sentence.

27                         (3)    An inmate may be released on parole at any time in order to  
28 undergo drug or alcohol treatment, **MENTAL HEALTH TREATMENT, OR TO**  
29 **PARTICIPATE IN A RESIDENTIAL PROGRAM OF TREATMENT IN THE BEST**  
30 **INTEREST OF AN INMATE'S EXPECTED OR NEWBORN CHILD** if the inmate:

1 (i) is not serving a sentence for a crime of violence, as defined  
2 in § 14–101 of the Criminal Law Article;

3 (ii) is not serving a sentence for a violation of Title 3, Subtitle 6,  
4 § 5–608(d), § 5–609(d), § 5–612, § 5–613, § 5–614, § 5–621, § 5–622, or § 5–628 of the  
5 Criminal Law Article; and

6 (iii) has been determined to be amenable to [drug or alcohol]  
7 treatment.

8 9–601.

9 (a) If a representation is made to the managing official of a correctional  
10 facility in the [Division of Correction] **DEPARTMENT** that an inmate in the  
11 correctional facility is pregnant and about to give birth, the managing official:

12 (1) a reasonable time before the anticipated birth, shall make an  
13 investigation; and

14 (2) if the facts require, shall recommend through the [Division of  
15 Correction] **MARYLAND PAROLE COMMISSION** that the Governor exercise executive  
16 clemency.

17 (b) Without notice, the Governor may:

18 (1) parole the inmate;

19 (2) commute the inmate's sentence; or

20 (3) suspend the execution of the inmate's sentence for a definite period  
21 or from time to time.

22 (c) If the Governor suspends the execution of an inmate's sentence, the  
23 managing official of the correctional facility:

24 (1) a reasonable time before the anticipated birth, shall have the  
25 inmate transferred from the correctional facility to another facility that provides  
26 comfortable accommodations, maintenance, and medical care under supervision and  
27 safeguards that the managing official determines necessary to prevent the inmate's  
28 escape from custody; and

1           (2) shall require the inmate to be returned to the correctional facility  
2 as soon after giving birth as the inmate's health allows.

3           (d) (1) The expenses of an inmate's accommodation, maintenance, and  
4 medical care incurred as a result of the inmate's transfer under subsection (c)(1) of  
5 this section shall be paid:

6                   (i) by the inmate;

7                   (ii) by relatives or friends of the inmate; or

8                   (iii) from any available fund that may be used to pay the hospital  
9 expenses of an inmate in the correctional facility.

10           (2) If money is not available under any of the sources identified in  
11 paragraph (1) of this subsection to pay the specified expenses:

12                   (i) the county from which the inmate was committed is  
13 responsible for payment of the expenses; and

14                   (ii) the managing official of the correctional facility to which the  
15 inmate was committed shall collect payment in accordance with Title 16 of the Health  
16 – General Article.

17           (e) (1) After receiving proof from the father or other relative of the child of  
18 the ability to properly care for the child, the [Division of Correction] **DEPARTMENT**  
19 may order that the father or other relative take custody of the child.

20           (2) The father or other relative of the child that receives custody under  
21 paragraph (1) of this subsection shall maintain and care for the child at the father's or  
22 other relative's expense until the inmate is released from the correctional facility or  
23 the child, as provided by law, is adopted.

24           (3) If the father or other relative of the child is unable to properly  
25 maintain and care for the child, the [Division of Correction] **DEPARTMENT** shall place  
26 the child in the care of the Department of Human Resources.

27           **(F) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, THE**  
28 **DEPARTMENT MAY ALLOW AN INMATE TO PARTICIPATE IN PROGRAMMING AND**  
29 **TO RETAIN CUSTODY OF THE NEWBORN CHILD IN OR OUT OF CUSTODY IF:**

30                   **(1) THE ENVIRONMENT AND PROGRAM IS CONSISTENT WITH THE**

1 **BEST INTERESTS OF THE CHILD AND CONSISTENT WITH PUBLIC SAFETY; AND**

2 **(2) THE CUSTODY IS NOT INCONSISTENT WITH THE PARENTAL**  
3 **RIGHTS OF ANY INDIVIDUAL WHO IS NOT DETAINED OR CONFINED IN A**  
4 **CORRECTIONAL FACILITY.**

5 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
6 October 1, 2007.

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.