

HOUSE BILL 703

E2, E1
HB 1101/08 – JUD

9lr1963

By: **Delegates Impallaria, Boteler, Dwyer, Jennings, Minnick, Norman, and Stocksdale**

Introduced and read first time: February 9, 2009

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law – Early Release of Inmate Subject to Deportation Order**

3 FOR the purpose of authorizing the Maryland Parole Commission to consider
4 releasing a certain inmate at any time after the inmate's period of
5 imprisonment has commenced, provided that the inmate is subject to a final
6 order of deportation issued by the United States Immigration and
7 Naturalization Service and has not been convicted of a certain crime of
8 violence; providing that a grant of parole under this Act shall be conditioned
9 specifically on the prompt deportation of the inmate; authorizing the
10 Commission to make a certain conditional grant of early parole only in
11 circumstances in which the Commission has received certain assurances from
12 the United States Immigration and Naturalization Service; providing that an
13 inmate who has been granted parole in accordance with this Act shall be
14 delivered to the custody of the United States Immigration and Naturalization
15 Service along with a certain warrant; requiring the Commission to take certain
16 steps if the inmate is not deported; establishing that certain time spent in the
17 custody of the United States Immigration and Naturalization Service shall be
18 credited against the term of a certain sentence; providing that a certain inmate
19 who commits a new felony offense after release under this Act shall serve the
20 remainder of the original sentence and may not receive certain credit; and
21 generally relating to parole and deportation.

22 BY adding to

23 Article – Correctional Services

24 Section 7–310

25 Annotated Code of Maryland

26 (2008 Replacement Volume and 2008 Supplement)

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Article – Correctional Services

7-310.

(A) (1) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBTITLE, THE COMMISSION MAY CONSIDER, IN ADDITION TO THE CRITERIA SET FORTH IN § 7-305 OF THIS SUBTITLE, RELEASING AN INMATE AT ANY TIME AFTER THE INMATE'S PERIOD OF IMPRISONMENT HAS COMMENCED, PROVIDED THAT THE INMATE:

(I) IS SUBJECT TO A FINAL ORDER OF DEPORTATION ISSUED BY THE UNITED STATES IMMIGRATION AND NATURALIZATION SERVICE; AND

(II) HAS NOT BEEN CONVICTED OF A CRIME OF VIOLENCE, AS DEFINED IN § 14-101 OF THE CRIMINAL LAW ARTICLE.

(2) A GRANT OF PAROLE UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE CONDITIONED SPECIFICALLY ON THE PROMPT DEPORTATION OF THE INMATE.

(B) THE COMMISSION MAY MAKE THE CONDITIONAL GRANT OF EARLY PAROLE DESCRIBED IN SUBSECTION (A) OF THIS SECTION ONLY IN CIRCUMSTANCES IN WHICH THE COMMISSION HAS RECEIVED FROM THE UNITED STATES IMMIGRATION AND NATURALIZATION SERVICE ASSURANCE:

(1) THAT AN ORDER OF DEPORTATION WILL BE EXECUTED OR THAT PROCEEDINGS WILL PROMPTLY BE COMMENCED FOR THE PURPOSE OF DEPORTATION ON RELEASE OF THE INMATE FROM THE CUSTODY OF THE DEPARTMENT; AND

(2) THAT THE INMATE, IF GRANTED PAROLE IN ACCORDANCE WITH THIS SECTION, WILL NOT BE RELEASED FROM THE CUSTODY OF THE UNITED STATES IMMIGRATION AND NATURALIZATION SERVICE, OTHER THAN BY DEPORTATION, WITHOUT THE UNITED STATES IMMIGRATION AND NATURALIZATION SERVICE FIRST PROVIDING THE COMMISSION A REASONABLE OPPORTUNITY TO ARRANGE FOR EXECUTION OF A WARRANT FOR THE RETAKING OF THE INMATE.

(C) (1) AN INMATE WHO HAS BEEN GRANTED PAROLE IN ACCORDANCE WITH THIS SECTION SHALL BE DELIVERED TO THE CUSTODY OF THE UNITED STATES IMMIGRATION AND NATURALIZATION SERVICE ALONG WITH THE COMMISSION'S WARRANT FOR RETAKING OF THE INMATE TO BE

1 EXECUTED IN THE EVENT OF A RELEASE FROM THAT CUSTODY OTHER THAN BY
2 DEPORTATION.

3 (2) IN THE EVENT THAT THE INMATE IS NOT DEPORTED, THE
4 COMMISSION SHALL:

5 (I) EXECUTE THE WARRANT;

6 (II) EFFECT THE RETURN OF THE INMATE TO THE CUSTODY
7 OF THE DEPARTMENT; AND

8 (III) WITHIN 60 DAYS AFTER THE RETURN, PROVIDED THAT
9 THE MINIMUM PERIOD OF IMPRISONMENT TO WHICH THE INMATE HAD BEEN
10 SENTENCED HAS BEEN SERVED, PERSONALLY INTERVIEW THE INMATE TO
11 DETERMINE WHETHER THE INMATE SHOULD BE PAROLED IN ACCORDANCE
12 WITH THE PROVISIONS OF THIS SUBTITLE.

13 (D) (1) THE RETURN OF A PERSON WHO IS GRANTED PAROLE IN
14 ACCORDANCE WITH THIS SECTION TO THE DEPARTMENT SHALL NOT BE
15 DEEMED TO BE A PAROLE DELINQUENCY AND THE TIME SPENT IN THE CUSTODY
16 OF THE UNITED STATES IMMIGRATION AND NATURALIZATION SERVICE SHALL
17 BE CREDITED AGAINST THE TERM OF THE SENTENCE IN ACCORDANCE WITH §
18 7-301 OF THIS SUBTITLE.

19 (2) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, AN
20 INMATE GRANTED PAROLE IN ACCORDANCE WITH THIS SECTION WHO IS
21 SUBSEQUENTLY COMMITTED TO THE CUSTODY OF THE DEPARTMENT FOR A
22 FELONY OFFENSE COMMITTED AFTER RELEASE UNDER THIS SECTION SHALL
23 SERVE THE REMAINDER OF THE SENTENCE ORIGINALLY IMPOSED AND MAY NOT
24 RECEIVE CREDIT FOR TIME BETWEEN RELEASE FROM THE CUSTODY OF THE
25 DEPARTMENT AND THE DATE OF THE REVOCATION OF PAROLE CAUSED BY THE
26 NEW OFFENSE.

27 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
28 October 1, 2009.