

SB0172/513522/1

BY: Delegate Cluster

AMENDMENTS TO SENATE BILL 172
(Third Reading File Bill – Committee Reprint)

AMENDMENT NO. 1

On page 2, in line 24, after “*site,*” insert “abolishing the Division of Pretrial Detention and Services within the Department of Public Safety and Correctional Services; repealing the authority of the Division of Pretrial Detention and Services to operate and control the Baltimore City Detention Center and the centralized booking facility for Baltimore City; repealing certain findings and policies relating to inmates housed at the Detention Center; repealing certain provisions relating to inmate medical care; establishing certain policies and findings relating to the transfer of ownership of the Detention Center from the State to the City of Baltimore; providing for the commitment of certain persons after a certain date; providing for the transfer of title to and possession and preservation of certain records; providing for the termination of employees of the Detention Center; requiring the State to provide certain leave benefits to former employees of the Detention Center; specifying certain financial responsibilities of the State; providing for the hiring of former employees of the Detention Center under certain circumstances at certain salaries; providing for certain pension and health insurance benefits for certain former employees of the Detention Center; authorizing the Mayor of Baltimore City to accept certain liabilities and assume certain contracts of the State under certain circumstances; specifying the applicability of the Maryland Tort Claims Act; authorizing the Mayor of Baltimore City to assume certain procurement and construction contracts entered into by the State under certain circumstances; directing the transfer of property, assets, licenses, credits, and rights of the Detention Center to the Mayor of Baltimore City; providing that the transfer of the property, assets, licenses, credits, and rights of the Detention Center may not go into effect until it is approved by the Board of Public Works; requiring the State to pay the operating and capital costs of the Detention Center in specified years; requiring the City of Baltimore to pay a certain part of the operating and capital costs of the Detention Center in a specified year; requiring the City of Baltimore to pay all of the operating and capital costs of the Detention Center

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beginning in a specified year; requiring that the Mayor of Baltimore City and the Secretary of Budget and Management enter into a certain memorandum of understanding; providing that the memorandum of understanding may not go into effect until approved by the Board of Public Works; requiring the City of Baltimore and the State to establish a certain process to inform and advise certain employees about certain matters; providing that certain employees may present certain grievances; specifying certain contractual obligations; altering the definition of “local correctional facility” to include a facility operated by Baltimore City; repealing and correcting certain references; defining a certain term;”.

On page 6, after line 21, insert:

“BY repealing and reenacting, without amendments,
Article – Correctional Services
Section 1–101(a)
Annotated Code of Maryland
(2008 Replacement Volume and 2013 Supplement)

BY repealing and reenacting, with amendments,
Article – Correctional Services
Section 1–101(j) and (o), 9–106, 9–604, 10–304, 10–701(c)(1)(vi), 10–801(a),
(c)(1), and (d), and 11–704
Annotated Code of Maryland
(2008 Replacement Volume and 2013 Supplement)

BY repealing
Article – Correctional Services
Section 5–101 and 5–102 and the subtitle “Subtitle 1. Definitions; General
Provisions”; 5–201, 5–202, and 5–203 and the subtitle “Subtitle 2.
Division of Pretrial Detention and Services”; 5–301 and 5–302 and the
subtitle “Subtitle 3. Pretrial Release Services Program”; 5–401 through

5–406 and the subtitle “Subtitle 4. Baltimore City Detention Center”; and the title “Title 5. Division of Pretrial Detention and Services”; and 11–101 Annotated Code of Maryland (2008 Replacement Volume and 2013 Supplement)”.

AMENDMENT NO. 2

On page 32, after line 14, insert:

“SECTION 4A. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Correctional Services

1–101.

- (a) In this article the following words have the meanings indicated.
- (j) “Local correctional facility” means a correctional facility that is operated:
 - (1) by one or more counties; [or]
 - (2) BY BALTIMORE CITY; OR
 - (3) by a municipal corporation.
- (o) (1) “State correctional facility” means a correctional facility that is operated by the State.
- (2) “State correctional facility” includes[:
 - (i) the Patuxent Institution[:

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(ii) the Baltimore City Detention Center; and

(iii) the centralized booking facility in Baltimore City that is operated by the Division of Pretrial Detention and Services in the Department of Public Safety and Correctional Services].

9-106.

(a) This section applies only in Baltimore City.

(b) Notwithstanding any other law, a judge who imposes a sentence of imprisonment on an individual shall commit the individual to the custody of the Commissioner of Correction.

(c) A judge who commits an individual to custody for any purpose other than service of a sentence shall commit the individual to the custody of the [Commissioner of Pretrial Detention and Services] **MAYOR OF BALTIMORE CITY OR THE MAYOR'S DESIGNEE.**

9-604.

(a) Subject to subsections (c) and (d) of this section, the State shall pay the funeral and burial expenses of an indigent inmate who dies while in the custody of a State correctional facility.

(b) The State shall pay the same amount for the funeral and burial expenses of an indigent inmate as the Department of Human Resources pays under § 5-415 of the Human Services Article.

(c) To be eligible to receive the benefit under this section, the family of an indigent inmate must be known or registered with the Department of Human Resources.

(d) If the body of an indigent inmate is not claimed within 48 hours after death, the State Anatomy Board shall take control of the body for final disposition in accordance with § 5-406 of the Health – General Article.

(e) The Commissioner of Correction[, the Commissioner of Pretrial Detention and Services,] and the Director of the Patuxent Institution shall adopt regulations establishing procedures to carry out this section.

10-304.

The Board shall administer benefits as provided under this subtitle to an individual who, while an inmate in the Patuxent Institution[, the Baltimore City Detention Center,] or a correctional facility in the Division of Correction:

(1) was engaged in work for which wages or a stipulated sum of money was paid by a correctional facility; and

(2) sustained a permanent partial disability or permanent total disability:

(i) as a result of a personal injury arising out of and in the course of work for which wages or a stipulated sum of money was paid by a correctional facility; and

(ii) that incapacitated the individual or materially reduced the individual's earning power in that type of work.

10-701.

(c) (1) An investigator in the Internal Investigative Unit may exercise the powers of a peace or police officer in the State on property that is not owned, leased, operated by, or under the control of the Department when:

(vi) engaged in an active and official investigation of an inmate in the custody of the Commissioner of Correction [or the Commissioner of Pretrial Detention and Services], an inmate subject to the jurisdiction of the Patuxent Institution, or an individual sentenced to probation or released on parole or mandatory supervision; or

10-801.

(a) In this section:

(1) “contraband” means any item, material, substance, or other thing of value that:

(i) is not authorized for inmate possession by the Commissioner of Correction, the Director of Patuxent Institution, [the Commissioner of Pretrial Detention and Services,] or the warden of a State correctional facility; or

(ii) is brought into a State correctional facility in a manner prohibited by the Commissioner of Correction, the Director of Patuxent Institution, [the Commissioner of Pretrial Detention and Services,] or the warden of a State correctional facility.

(2) “contraband” includes any other property defined in regulations by the Commissioner of Correction[,] OR the Director of Patuxent Institution[, or the Commissioner of Pretrial Detention and Services].

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(c) (1) The Commissioner of Correction[, the] AND THE Director of the Patuxent Institution[, and the Commissioner of Pretrial Detention and Services] shall adopt regulations:

(d) (1) Personal property that is unclaimed within the 30-day holding period established under subsection (b) of this section shall be deemed abandoned property.

(2) Abandoned property may be sold, converted to the use of the Division of Correction[,] OR the Patuxent Institution, [or the Division of Pretrial Detention and Services.] or otherwise disposed of in accordance with procedures established by regulation.

(3) All claims to abandoned property are absolutely barred.

11-704.

(a) [In this section, “Commissioner” means the Commissioner of Pretrial Detention and Services.

(b)] This section applies only in Baltimore City.

[(c)] (B) (1) The [Commissioner] MAYOR OF BALTIMORE CITY OR THE MAYOR’S DESIGNEE may allow an inmate of the Baltimore City Detention Center to participate in one of the activities specified in paragraph (2) of this subsection during the period of custody if the participation:

(i) is approved by the judge ordering confinement or, if that judge is unable to act, by another judge of the committing court; and

(ii) is in accordance with available programs.

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(2) Subject to paragraph (1) of this subsection, an inmate may:

(i) continue regular employment;

(ii) obtain new employment;

(iii) participate in a training, rehabilitation, or other special program; or

(iv) attend an educational institution.

(3) (i) An inmate who is authorized to participate in a program under this subsection shall be held in custody between program hours or periods.

(ii) The [Commissioner or Commissioner's] **MAYOR OF BALTIMORE CITY OR THE MAYOR'S** designee may allow an inmate who is authorized to participate in a program under this subsection to be held in custody through home detention by the use of electronic monitoring devices.

(iii) Subject to the availability of funds, the [Commissioner] **MAYOR OF BALTIMORE CITY OR THE MAYOR'S DESIGNEE** may contract for halfway houses or other suitable housing facilities or electronic monitoring devices for inmates authorized to participate in a program under this subsection.

[(d)] (C) (1) An inmate who is employed under a work release program shall surrender to the [Commissioner or Commissioner's] **MAYOR OF BALTIMORE CITY OR THE MAYOR'S** designee the total earnings of the inmate under the program, less payroll deductions required by law.

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(2) From the net earnings of the inmate, the [Commissioner or Commissioner's] **MAYOR OF BALTIMORE CITY OR THE MAYOR'S** designee shall deduct in the following order of priority:

(i) an amount not to exceed one-third of the inmate's net earnings for the cost [to the State] of providing food, lodging, electronic monitoring devices, and clothing for the inmate;

(ii) the actual and necessary food, travel, and other expenses of the inmate when released from actual custody under the program;

(iii) the amount, if any, that the inmate is legally obligated to pay for the support of a dependent by court order directed to the [Commissioner] **MAYOR OF BALTIMORE CITY OR THE MAYOR'S DESIGNEE**; and

(iv) the amount for court-ordered payments for restitution.

(3) The [Commissioner or Commissioner's] **MAYOR OF BALTIMORE CITY OR THE MAYOR'S** designee shall pay any amount deducted as required by paragraph (2)(iii) of this subsection as the court order directs.

(4) The [Commissioner or Commissioner's] **MAYOR OF BALTIMORE CITY OR THE MAYOR'S** designee shall:

(i) credit to the inmate's account any remaining balance; and

(ii) pay the balance in the inmate's account to the inmate on release.

(5) If any part of the inmate's final earnings under a work release program are required to satisfy the deductions specified in paragraph (2) of this

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subsection, the balance of the final earnings shall be forwarded to the inmate within 15 days after the date of release from the Baltimore City Detention Center.

[(e)] (D) (1) A court may require an individual who is convicted of a crime to satisfy a fine or court costs by participating in a work program established under the jurisdiction of the Division of Parole and Probation in Baltimore City.

(2) An individual who participates in the work program shall receive a credit of at least the federal minimum wage per hour toward the fine or court costs.

SECTION 4B. AND BE IT FURTHER ENACTED, That Section(s) 5–101 and 5–102 and the subtitle “Subtitle 1. Definitions; General Provisions”; 5–201, 5–202, and 5–203 and the subtitle “Subtitle 2. Division of Pretrial Detention and Services”; 5–301 and 5–302 and the subtitle “Subtitle 3. Pretrial Release Services Program”; 5–401 through 5–406 and the subtitle “Subtitle 4. Baltimore City Detention Center”; and the title “Title 5. Division of Pretrial Detention and Services”; and 11–101 of Article – Correctional Services of the Annotated Code of Maryland be repealed.

SECTION 4C. AND BE IT FURTHER ENACTED, That:

(a) The General Assembly finds:

(1) the Division of Pretrial Detention and Services was established within the Department of Public Safety and Correctional Services in 1991 under Chapter 59 of the Acts of the General Assembly of 1991;

(2) when the Division of Pretrial Detention and Services was formed, the State assumed responsibility for the Baltimore City Jail and renamed it the Baltimore City Detention Center;

(3) since 1991, the State has assumed the fiscal responsibility of funding the operating and capital costs of the Baltimore Detention Center; and

(4) except in Baltimore City, each local correctional facility is operated and funded by the local jurisdiction.

(b) Consistent with the practices of other local jurisdictions in the State, it is the intent of the General Assembly that the City of Baltimore resume operating the Baltimore City Detention Center and related local correctional facilities.

SECTION 4D. AND BE IT FURTHER ENACTED, That:

(a) Any person committed to the custody of the Baltimore City Detention Center as of January 1, 2015, is, on that date, committed to the custody of the Mayor of Baltimore City or the Mayor's designee.

(b) (1) On January 1, 2015, title to and possession of all records concerning inmates housed as of that date at the Baltimore City Detention Center shall be transferred to the Mayor of Baltimore City or the Mayor's designee.

(2) (i) Except as provided in paragraph (1) of this subsection, all administrative, financial, operational, inmate, and other records concerning the Baltimore City Detention Center shall be preserved by the State for a period of 5 years or for any other period of time that is agreed to between the State and the Mayor of Baltimore City.

(ii) On request, the State shall transfer possession of the records under subparagraph (i) of this paragraph to the Mayor of Baltimore City or the Mayor's designee.

(iii) Personnel records shall be made available, on request, to any employee, including a correctional officer, who requires the records in connection with the performance of the employee's official duties.

SECTION 4E. AND BE IT FURTHER ENACTED, That:

- (a) In this section, “employee” includes a correctional officer.
- (b) On December 31, 2014, every employee of the Baltimore City Detention Center shall be terminated from State employment.
- (c) (1) Any sick leave or other benefit that has been earned or accrued by an employee of the Baltimore City Detention Center as of December 31, 2014, shall be the sole financial responsibility of the State.
- (2) In accordance with paragraph (1) of this subsection, the State shall pay whatever money is due to an employee of the Baltimore City Detention Center on termination of State employment.
- (d) Notwithstanding any other provision of local law, on January 1, 2015, the Mayor of Baltimore City may employ, as the Mayor deems necessary, any employee of the Baltimore City Detention Center at the same salary received on December 31, 2014, or the salary received at the time of employment, whichever is greater, without further examination or qualification.
- (e) (1) The City of Baltimore and the State of Maryland shall establish a process to:
- (i) inform and advise employees of the Baltimore City Detention Center of their employment status and the terms and conditions of employment, if any, with Baltimore City; and
- (ii) offer counseling as to the range of options available.
- (2) Employees of the Baltimore City Detention Center who will not be employed on January 1, 2015, by Baltimore City shall be given 2 weeks’ advance

notice by the Mayor of Baltimore City or the Mayor's designee that they will not be employed on January 1, 2015, by Baltimore City.

(3) This section may not be construed to create any right of employment with the City of Baltimore.

(f) (1) All employees of the Baltimore City Detention Center may present grievances as permitted under the State Personnel and Pensions Article of the Annotated Code of Maryland.

(2) An employee may be represented by an attorney or other designated representative.

(g) (1) Except as provided in subsection (h) of this section, each former Baltimore City Detention Center employee shall remain a member of the Maryland State Retirement and Pension System.

(2) (i) The City of Baltimore shall contribute the annual cost of the pension coverage to the Maryland State Retirement and Pension System.

(ii) The cost of the pension coverage under subparagraph (i) of this paragraph shall be based on the contribution rate applicable to all other members, as determined by the Board of Trustees for the State Retirement and Pension System.

(h) (1) On retirement, each employee shall receive the same health insurance benefits as other members of the Maryland State Retirement and Pension System.

(2) An employee who elects to remain a member of the Maryland State Retirement and Pension System shall not be entitled to receive retiree health insurance benefits from the City of Baltimore.

(i) (1) Notwithstanding any other provision of State or local law, a former Baltimore City Detention Center employee may elect to enroll in and become a new member of the Employees' Retirement System of the City of Baltimore on July 1, 2018.

(2) A former Baltimore City Detention Center employee shall be entitled to a vested allowance, as provided for in the Maryland State Retirement and Pension System, to be paid by the State for service credited to the System.

(3) On retirement, each employee may elect to participate in either:

(i) the State employee health insurance program for retirees, under the same terms and conditions as other State employees as set forth in the State Personnel and Pensions Article; or

(ii) the Baltimore City health insurance program for retirees, under the same terms and conditions as other members of the Employees' Retirement System of the City of Baltimore.

(4) If a Baltimore City Detention Center employee who has elected to enroll in the Employees' Retirement System of the City of Baltimore is not eligible to receive a vested allowance in accordance with paragraph (2) of this subsection, the employee shall receive a cash payment from the State equivalent to the value of the employee accrued benefit in the Maryland State Retirement and Pension System, as determined by the State's actuary.

SECTION 4F. AND BE IT FURTHER ENACTED, That:

(a) (1) The Mayor of Baltimore City may assume in writing such liabilities and obligations of the State as the Mayor considers necessary and useful.

(2) No liability, contract, or obligation of the State is a liability, contract, or obligation of the City of Baltimore unless such liability, contract, or obligation is expressly assumed by the Mayor of Baltimore City in writing.

(b) (1) The State shall indemnify and hold harmless the City of Baltimore for any judgments, damages, liens, settlements, consent decrees, and other costs arising from the operations of the Baltimore City Detention Center or the acts or omissions of detention center employees, officers, or agents that occurred on or before December 31, 2014.

(2) On or after January 1, 2015, an employee of the Baltimore City Detention Center, including a correctional officer, shall be covered by the Maryland Tort Claims Act for any act or omission that occurred in connection with the performance of the employee's duties on or before December 31, 2014.

(c) (1) For purposes of this subsection "procurement contract" has the meaning stated in § 11-101 of the State Finance and Procurement Article.

(2) Before January 1, 2015, the Mayor of Baltimore City may, in the Mayor's discretion, assume by written agreement as assignee, any procurement contract entered into by or on behalf of the detention center before January 1, 2015.

(d) This section does not alter or terminate the State's obligation to Baltimore City, nor Baltimore City's obligation to the State, with respect to any contract for a capital project awarded before January 1, 2015, including any encumbered balances due.

SECTION 4G. AND BE IT FURTHER ENACTED, That:

(a) The Secretary of Public Safety and Correctional Services and the City of Baltimore shall enter into an agreement effective January 1, 2015, for the purpose of transferring all the rights, title, and interests of the property, assets, licenses, and

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credits of the Baltimore City Detention Center and any property or other assets used or acquired for the detention center to the City of Baltimore, to be used by the detention center, or as otherwise directed or authorized by the Mayor of Baltimore City.

- (b) The assets and property under subsection (a) of this section shall include:
- (1) the Baltimore Central Booking and Intake Center;
 - (2) the Men's Detention Center;
 - (3) the Women's Detention Center;
 - (4) the Wyatt Building;
 - (5) the Annex Building;
 - (6) the Jail Industries Building;
 - (7) the Administration Building;
 - (8) the New Youth Detention Center; and
 - (9) the power plant, repair shops, education building, and other related facilities.

(c) Subject to subsection (d) of this section, on execution of the agreement under subsection (a) of this section, the State and the City of Baltimore shall make, and the Mayor of Baltimore City shall accept, a conveyance of the real property, other property, assets, licenses, credits, and rights that are the subject of the agreement.

(d) The agreement executed by the parties under subsection (a) of this section may not go into effect until it is approved by the Board of Public Works.

SECTION 4H. AND BE IT FURTHER ENACTED, That:

(a) (1) The State shall pay the operating and capital costs of the Baltimore City Detention Center for fiscal years 2015 through 2017.

(2) For fiscal year 2018, Baltimore City shall pay one-half of the operating and capital costs of the Baltimore City Detention Center.

(3) Beginning in fiscal year 2019, Baltimore City shall pay all of the operating and capital costs of the Baltimore City Detention Center.

(b) (1) On or before January 1, 2015, the Mayor of Baltimore City and the Secretary of Budget and Management shall enter into a memorandum of understanding governing the provisions of subsection (a) of this section.

(2) The memorandum of understanding under paragraph (1) of this section shall:

(i) include the process for submitting and approving the annual budget of the Baltimore City Detention Center;

(ii) specify the manner and frequency in which the funding provided by the State to Baltimore City for the operation of the Baltimore City Detention Center shall be audited; and

(iii) address any other matter deemed relevant by the parties.

(3) The memorandum of understanding executed by the parties under this subsection may not go into effect until it is approved by the Board of Public Works.

AMENDMENT NO. 3

On page 38, in line 2, strike "and 4" and substitute ", 4, and 4C through 4H"; after line 4, insert:

"SECTION 17A. AND BE IT FURTHER ENACTED, That Sections 4A and 4B of this Act shall take effect January 1, 2015."

and in line 6, strike "and 17" and substitute "17, and 17A".