

# HOUSE BILL 1808

E4

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By: **Delegate Conaway**

Introduced and read first time: March 5, 2018

Assigned to: Rules and Executive Nominations

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## A BILL ENTITLED

1 AN ACT concerning

2 **Correctional Services – Statewide Inmate Release Programs – Office of**  
3 **Alternatives to Incarceration**

4 FOR the purpose of establishing the Office of Alternatives to Incarceration within the  
5 Department of Public Safety and Correctional Services; providing for the  
6 appointment, service, and compensation of an executive director of the Office;  
7 authorizing the Secretary of Public Safety and Correctional Services to provide the  
8 Office with certain employees in accordance with the State budget; requiring the  
9 Office to adopt regulations to provide certain inmates with certain release programs;  
10 transferring certain authority relating to certain programs to the Office; authorizing  
11 a certain judge to approve the transfer of a certain inmate to a prerelease center to  
12 participate in a certain program under certain circumstances; authorizing a certain  
13 judge to approve the release from custody of a certain inmate under certain  
14 circumstances; requiring the director of a local correctional facility or the director's  
15 designee to collect the earnings of a certain inmate, to make certain deductions for  
16 certain purposes, and to take certain steps with the balance; providing certain  
17 sanctions for an inmate who violates a certain trust or condition; requiring the Office  
18 to establish a certain risk assessment tool to guide certain selection requirements;  
19 repealing provisions of law authorizing the establishment of certain prerelease  
20 programming by local jurisdictions; defining a certain term; providing for a delayed  
21 effective date; and generally relating to release programs in local correctional  
22 facilities.

23 BY repealing

24 Article – Correctional Services

25 Section 11–601 and 11–607; and 11–701 through 11–725 and the subtitle “Subtitle  
26 7. Individual County Provisions”

27 Annotated Code of Maryland

28 (2017 Replacement Volume)

29 BY repealing and reenacting, with amendments,

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Article – Correctional Services  
2 Section 11–602, 11–603, 11–605, 11–606, and 11–726 to be under the amended  
3 subtitle “Subtitle 6. Office of Alternatives to Incarceration”  
4 Annotated Code of Maryland  
5 (2017 Replacement Volume)

6 BY adding to  
7 Article – Correctional Services  
8 Section 11–601 through 11–604, 11–606, and 11–610  
9 Annotated Code of Maryland  
10 (2017 Replacement Volume)

11 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
12 That Section(s) 11–701 through 11–725 and the subtitle “Subtitle 7. Individual County  
13 Provisions” of Article – Correctional Services of the Annotated Code of Maryland be  
14 repealed.

15 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read  
16 as follows:

17 **Article – Correctional Services**

18 Subtitle 6. **OFFICE OF Alternatives to Incarceration [– Generally].**

19 [11–601.

20 (a) Except as provided in subsection (b) of this section and Subtitle 7 of this title,  
21 this subtitle applies in all counties.

22 (b) This subtitle does not apply in Montgomery County.]

23 **11–601.**

24 **IN THIS SUBTITLE, “OFFICE” MEANS THE OFFICE OF ALTERNATIVES TO**  
25 **INCARCERATION.**

26 **11–602.**

27 **THERE IS AN OFFICE OF ALTERNATIVES TO INCARCERATION WITHIN THE**  
28 **DEPARTMENT.**

29 **11–603.**

30 **(A) (1) WITH THE APPROVAL OF THE GOVERNOR, THE SECRETARY**  
31 **SHALL APPOINT AN EXECUTIVE DIRECTOR OF THE OFFICE.**

1           **(2) THE EXECUTIVE DIRECTOR SERVES AT THE PLEASURE OF THE**  
2 **SECRETARY.**

3           **(3) THE EXECUTIVE DIRECTOR IS ENTITLED TO THE COMPENSATION**  
4 **PROVIDED IN THE STATE BUDGET.**

5           **(B) IN ACCORDANCE WITH THE STATE BUDGET, THE SECRETARY MAY**  
6 **PROVIDE THE OFFICE WITH THE ADMINISTRATIVE, SECRETARIAL, AND CLERICAL**  
7 **EMPLOYEES NECESSARY FOR THE EFFICIENT ADMINISTRATION OF THE POWERS**  
8 **AND DUTIES OF THE OFFICE.**

9 **11-604.**

10           **THE OFFICE SHALL, SUBJECT TO THE APPROVAL OF THE SECRETARY, ADOPT**  
11 **REGULATIONS TO PROVIDE ALL INMATES COMMITTED TO THE CUSTODY OF LOCAL**  
12 **CORRECTIONAL FACILITIES WHO ARE AUTHORIZED TO PARTICIPATE BY A JUDGE**  
13 **UNDER §§ 11-605 OR 11-606 OF THIS SUBTITLE WITH:**

14           **(1) A HOME DETENTION PROGRAM;**

15           **(2) A WORK RELEASE PROGRAM;**

16           **(3) A PRETRIAL RELEASE PROGRAM; AND**

17           **(4) A PRERELEASE PROGRAM.**

18 **[11-602.] 11-605.**

19           (a) (1) (i) When an individual is convicted of a crime and sentenced to a  
20 local correctional facility, the sentencing judge may allow the individual, to the extent  
21 possible, to continue the individual's regular employment or obtain new employment during  
22 the inmate's term of confinement.

23                   (ii) When an individual is adjudicated to be in contempt of court and  
24 committed to the custody of a local correctional facility, the judge who commits the  
25 individual may allow the individual, to the extent possible, to continue the individual's  
26 regular employment or obtain new employment during the period in which the individual  
27 is committed to the custody of the local correctional facility.

28           (2) If a judge allows an individual to continue employment or obtain new  
29 employment under paragraph (1) of this subsection, the judge shall designate [either the  
30 managing official of the local correctional facility or the Division of Parole and Probation]  
31 **THE OFFICE** to supervise, arrange for, or obtain employment for the individual.

1 (b) If a judge designates [a managing official or the Division of Parole and  
2 Probation] **THE OFFICE** to arrange for or obtain employment for an inmate as provided  
3 under subsection (a)(2) of this section, the [managing official or Division] **OFFICE**:

4 (1) in the case of an inmate who has been regularly employed, shall arrange  
5 for continuation of employment without interruption to the extent possible; and

6 (2) in the case of an inmate who is not employed, shall make every effort to  
7 secure suitable employment that pays a fair and reasonable wage.

8 (c) If [a managing official or the Division of Parole and Probation] **THE OFFICE**  
9 secures suitable employment for an inmate that pays a fair and reasonable wage, the  
10 inmate shall work a fair and reasonable number of hours each day and week.

11 **11-606.**

12 (A) (1) **AT ANY TIME DURING THE CONFINEMENT OF AN INMATE OF THE**  
13 **LOCAL CORRECTIONAL FACILITY, THE JUDGE WHO ORDERED THE CONFINEMENT**  
14 **OR, IF THAT JUDGE IS UNABLE TO ACT, ANOTHER JUDGE OF THE COMMITTING**  
15 **COURT MAY APPROVE THE TRANSFER OF THE INMATE TO A PRERELEASE CENTER TO**  
16 **PARTICIPATE IN A PROGRAM UNDER THIS SUBTITLE:**

17 (I) **IN ACCORDANCE WITH THE SELECTION REQUIREMENTS**  
18 **AND PROGRAMS ESTABLISHED BY THE OFFICE IN ACCORDANCE WITH § 11-610 OF**  
19 **THIS SUBTITLE; AND**

20 (II) **AFTER A RECOMMENDATION BY THE DIRECTOR OF THE**  
21 **FACILITY OR THE DIRECTOR'S DESIGNEE.**

22 (2) **AFTER THE INMATE ENTERS THE PROGRAM, THE JUDGE WHO**  
23 **ORDERED CONFINEMENT OR, IF THAT JUDGE IS UNABLE TO ACT, ANOTHER JUDGE**  
24 **OF THE COMMITTING COURT MAY ORDER THE RELEASE OF THE INMATE FROM**  
25 **CUSTODY BASED ON:**

26 (I) **THE RECOMMENDATION OF THE DIRECTOR OF THE**  
27 **FACILITY OR THE DIRECTOR'S DESIGNEE; AND**

28 (II) **THE REPORT OF THE INMATE'S PERFORMANCE IN THE**  
29 **PROGRAM.**

30 (B) (1) **THE DIRECTOR OF THE FACILITY OR THE DIRECTOR'S DESIGNEE**  
31 **SHALL COLLECT THE EARNINGS OF AN INMATE PARTICIPATING IN A PROGRAM**  
32 **UNDER THIS SECTION, LESS ANY PAYROLL DEDUCTION REQUIRED BY LAW.**

1           **(2) FROM THE EARNINGS OF THE INMATE, THE DIRECTOR MAY**  
2 **DEDUCT:**

3                   **(I) THE AMOUNT DETERMINED TO BE THE COST TO THE**  
4 **COUNTY OF PROVIDING FOOD, LODGING, AND CLOTHING FOR THE INMATE;**

5                   **(II) ACTUAL AND NECESSARY FOOD, TRAVEL, AND OTHER**  
6 **EXPENSES INCIDENTAL TO THE INMATE'S PARTICIPATION IN THE PROGRAM;**

7                   **(III) AN AMOUNT THE INMATE IS LEGALLY OBLIGATED OR**  
8 **DESIRES TO PAY FOR THE SUPPORT OF A DEPENDENT;**

9                   **(IV) IF APPLICABLE, A REASONABLE AMOUNT TO REPAY THE**  
10 **STATE OR THE COUNTY FOR AN ATTORNEY APPOINTED BY THE COURT; AND**

11                   **(V) COURT-ORDERED PAYMENTS FOR RESTITUTION.**

12           **(3) THE DIRECTOR OF THE FACILITY SHALL:**

13                   **(I) CREDIT TO THE INMATE'S ACCOUNT ANY REMAINING**  
14 **BALANCE; AND**

15                   **(II) DISPOSE OF THE BALANCE IN THE INMATE'S ACCOUNT AS**  
16 **THE INMATE REQUESTS AND THE DIRECTOR APPROVES.**

17           **(C) IF AN INMATE VIOLATES A TRUST OR A CONDITION THAT THE OFFICE**  
18 **ESTABLISHES FOR CONDUCT OR EMPLOYMENT, THE INMATE IS SUBJECT TO:**

19                   **(1) REMOVAL FROM THE PROGRAM; AND**

20                   **(2) CANCELLATION OF ANY EARNED DIMINUTION OF THE INMATE'S**  
21 **TERM OF CONFINEMENT.**

22 **[11-603.] 11-607.**

23           Unless the court directs otherwise, an inmate shall be confined in the local  
24 correctional facility:

25                   (1) when not employed; and

26                   (2) between periods of employment.

27 **[11-605.] 11-608.**

1 If the committing court determines that an inmate's conduct, diligence, and general  
2 attitude merit a diminution of sentence, the court may allow diminution of one-fourth of  
3 the inmate's term of confinement.

4 **[11-606.] 11-609.**

5 (a) If an inmate violates a condition imposed for the inmate's conduct, custody, or  
6 employment, the inmate shall be returned to the court.

7 (b) The court may:

8 (1) require that the balance of the inmate's sentence be served in actual  
9 confinement; and

10 (2) cancel any earned diminution of the inmate's term of confinement.

11 **[11-607.]**

12 The managing official of a local correctional facility shall receive an extra expense or  
13 mileage allowance as the local governing body determines for additional services provided  
14 under this subtitle.]

15 **11-610.**

16 **THE OFFICE SHALL ESTABLISH A RISK ASSESSMENT TOOL THAT IS**  
17 **RECOMMENDED BY THE UNITED STATES DEPARTMENT OF JUSTICE TO GUIDE**  
18 **SELECTION REQUIREMENTS FOR PROGRAMS ESTABLISHED UNDER THIS SUBTITLE.**

19 **[11-726.] 11-611.**

20 (a) An individual who knowingly violates a restriction on movement imposed as  
21 a condition of leave, work release, or a home detention order or agreement under this  
22 subtitle is guilty of escape as provided in §§ 9-404 through 9-407 of the Criminal Law  
23 Article.

24 (b) An individual who knowingly violates any other condition of leave, work  
25 release, or a home detention order or agreement imposed under this subtitle is guilty of a  
26 misdemeanor and on conviction is subject to a fine not exceeding \$1,000 or imprisonment  
27 not exceeding 1 year or both.

28 **SECTION 3. AND BE IT FURTHER ENACTED,** That this Act shall take effect  
29 January 1, 2020.