A BILL ENTITLED

AN ACT concerning

Health and Wellness Standards – Correctional Facilities

FOR the purpose of requiring the Secretary of Public Safety and Correctional Services, with the advice of the Secretary of Health, to update certain minimum mandatory standards for inmate food services to reflect certain practices and guidelines; establishing the Correctional Facilities Health and Wellness Pilot Program; requiring the Secretary of Health to adopt certain health and wellness standards for the correctional facilities participating in the Pilot Program; and generally relating to health and wellness standards in correctional facilities.

BY repealing and reenacting, with amendments,

Article – Correctional Services
Section 8–103
Annotated Code of Maryland
(2017 Replacement Volume and 2021 Supplement)

Preamble

WHEREAS, According to research by the Office of Minority Health and Health Disparities in the Maryland Department of Health, incarcerated individuals in Maryland have a higher burden of chronic diseases that is more than double the rate of the general population, including diseases like diabetes (5% of inmates vs. 2.4% of noninmates), chronic respiratory conditions such as chronic obstructive pulmonary disease (34.1% of inmates vs. 19.2% of noninmates), and liver disease (10% of inmates vs. 0.6% of noninmates); and

WHEREAS, On January 23, 2020, the Public News Service reported that Maryland’s prisons have the highest percentage of imprisoned African Americans in the nation, at 70% of the total prison population compared to 30% of the State population; and

WHEREAS, On November 14, 2020, the Centers for Disease Control and Prevention reported that African American, Hispanic, and Native American people are four times more
likely to be hospitalized due to COVID–19, suffer greater rates of COVID–19 complications, and are at a higher risk of death because they suffer higher rates of heart disease, diabetes, hypertension, and other conditions which cause more severe reactions to COVID–19; and

WHEREAS, As of November 16, 2020, the Department of Public Safety and Correctional Services reported that 1,199 inmates have tested positive for the virus that causes COVID–19 and from March 2020 through November 2020, 13 inmates died from COVID–19; and

WHEREAS, According to the Maryland Division of Correction 2018 Annual Report, approximately $159 million was spent on health, clinical, and hospital services at approximately $7,950 spent per inmate for approximately 20,000 inmates, which is approximately three times the cost spent on prison food costs in the same year at $55 million; and

WHEREAS, It has been shown that a nutritionally balanced diet, rich in plant–based foods, boosts the immune system’s ability to combat viral infections; and

WHEREAS, Hira Shakoor, et al., in an August 2020 article published by Maturitas, concludes that Vitamins C, D, and E, zinc, selenium, and omega–3 fatty acids, all of which are found in high amounts in fruits, vegetables, and legumes, conceivably have a role in the recovery of COVID–19 patients through enhancements of the immune system’s ability to fight infection, inflammation, and swelling; and

WHEREAS, According to the 2017 Special Report by the Department of Public Safety and Correctional Services regarding the Monitoring of Contractor Performance for the Assessment of Liquidated Damages, approximately 104,000 medication prescriptions were administered on a monthly basis to inmates statewide; and

WHEREAS, Research has shown that the consumption of plant–based meals rich in complex carbohydrate foods (such as beans, lentils, grains, potatoes, pasta, and oranges) can reduce and even reverse chronic degenerative diseases that require lifelong reliance on medications to manage and can reduce overall health care costs and prison food costs; and

WHEREAS, In April 2015, a jail in Arizona went vegetarian and, by spending money on meatless food, the prison saved $200,000 in the first year of the program; and

WHEREAS, Maryland could save millions of dollars annually in health care costs that could be reinvested into reentry programs by reducing the purchase of animal foods and animal–based beverages and by providing plant–based food whole meals a few days during the week; and

WHEREAS, Dariush Mozaffarian, M.D., Dean of the Tufts Friedman School of Nutrition Science and Policy, wrote in the article “Doctors Prescribing Fruits and Veggies: Why Nutrition Policy is a National Priority”, in summary, that medically tailored plant–based meals prescribed to patients are associated with “reduced hospitalizations, emergency room visits, and overall health care spending”, and that the 2018 Produce
Prescription Program, which allows physicians to prescribe fruits and vegetables to treat degenerative disease, could reduce health care costs if implemented by more physicians; and

WHEREAS, Medical schools and university allied health programs offer limited training to physicians and health care professionals in nutrition and almost no training in plant–based and lifestyle medicine that can help reduce Maryland health care costs in prisons and hospitals; and

WHEREAS, Physicians must complete 50 hours of continuing medical education every 2 years, some of which can be used to acquire knowledge of plant–based nutrition and lifestyle medicine; and

WHEREAS, To address the health concerns of inmates and to lower the cost of inmate health care, including prescription drug costs, while also lowering recidivism rates in California prisons, the California legislature passed SB 1138 in 2018, mandating plant–based meal options in prisons and hospitals; and

WHEREAS, The New York legislature passed A.4072 in 2019, mandating plant–based meal options in hospitals; and

WHEREAS, Since 2011, the Federal Bureau of Prisons has provided plant–based meals and beverages on demand in every meal in its over 150 correctional facilities; now, therefore,

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

Article – Correctional Services

(a) (1) [With] SUBJECT TO SUBSECTIONS (D) AND (E) OF THIS SECTION AND WITH the advice of the Commission, the Secretary shall adopt regulations that establish minimum mandatory standards applicable to security and inmate control, inmate safety, inmate food services, inmate housing and sanitation, inmate rights, classification, hearings, victim notification, restitution, and administrative record keeping.

(2) The minimum mandatory standards adopted under paragraph (1) of this subsection shall apply to all State and local correctional facilities.

(b) (1) With the advice of the Commission, the Secretary shall adopt regulations that establish approved standards applicable to personnel, training, administration, management, planning and coordination, research and evaluation, physical plant, special management inmates, rules and discipline, mail and visiting, reception and orientation, property control, work programs, educational and vocational training, library services, religious services, recreational activities, counseling, release
preparation, and volunteers.

(2) The approved standards adopted under paragraph (1) of this subsection:

(i) shall apply to all State correctional facilities; and

(ii) may be adopted, as a whole or in part, by a local correctional facility.

(c) The standards adopted under this section shall be consistent with federal and State law.

(D) ON OR BEFORE JANUARY 1, 2023, AND AT LEAST EVERY 5 YEARS THEREAFTER, THE SECRETARY, WITH THE ADVICE OF THE SECRETARY OF HEALTH, SHALL UPDATE THE MINIMUM MANDATORY STANDARDS FOR INMATE FOOD SERVICES ADOPTED UNDER SUBSECTION (A) OF THIS SECTION TO REFLECT CURRENT NUTRITIONAL BEST PRACTICES AND SCIENTIFIC GUIDELINES.

(E) (1) THE MINIMUM MANDATORY STANDARDS FOR INMATE FOOD SERVICES ADOPTED UNDER SUBSECTION (A) OF THIS SECTION SHALL:

(I) WITHOUT REQUIRING A RELIGIOUS OR MEDICAL EXCEPTION, INCLUDE A PROCEDURE FOR AN INMATE TO ELECT TO CHANGE FOOD AND BEVERAGE OPTIONS TO ANY OF THE FOLLOWING:

1. KOSHER;

2. HALAL;

3. DIABETIC; OR

4. ANY OTHER DIET THAT IS AVAILABLE TO AN INMATE; AND

(II) REQUIRE AN INMATE TO PROVIDE ADEQUATE NOTICE OF ANY DIETARY REQUIREMENTS.

(2) AN ELECTION TO CHANGE FOOD AND BEVERAGE OPTIONS OR A NOTICE OF DIETARY REQUIREMENTS PROVIDED IN ACCORDANCE WITH THE MINIMUM MANDATORY STANDARDS REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL:

(I) REMAIN VALID FOR 6 MONTHS; AND
(II) BE RENEWED AUTOMATICALLY, UNLESS THE INMATE PROVIDES ADDITIONAL NOTICE, IN WRITING, OF A CHANGE TO THE INMATE’S DIET.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) (1) In this section the following words have the meanings indicated.

(2) (i) “Lifestyle medicine” means the branch of medicine dealing with research, prevention, and treatment of disorders caused by lifestyle factors, including nutrition, physical inactivity, and chronic stress, as defined by the American College of Lifestyle Medicine.

(ii) “Lifestyle medicine” includes the evidence–based therapeutic use of a plant–based, whole food–predominant dietary lifestyle, regular physical activity, restorative sleep, stress management, avoidance of substances that increase the risk of developing chronic degenerative disease or death based on empirical evidence, and positive social connection as primary modalities for treatment and reversal of chronic disease.

(3) “Pilot Program” means the Correctional Facilities Health and Wellness Pilot Program.

(4) “Plant–based beverage” means a beverage that:

(i) contains no animal products or byproducts, including dairy from any animal; and

(ii) is comparable to the nonplant–based beverage option it replaces.

(5) “Plant–based food option” means a food that contains no animal products or byproducts, including meat, poultry, seafood, dairy, and eggs.

(6) “Plant–based meal option” means a meal that:

(i) contains no animal products or byproducts, including meat, poultry, seafood, dairy, and eggs; and

(ii) has a nutritional value that is comparable to the nonplant–based meal option it replaces.

(7) “Plant–based nutrition” means the process of providing or obtaining plant–based foods and beverages necessary for health and growth that can be consumed in various combinations.

(b) (1) There is a Correctional Facilities Health and Wellness Pilot Program.

(2) The purpose of the Pilot Program is to establish minimum mandatory
standards for inmate food services for the correctional facilities participating in the Pilot Program.

(3) The Secretary of Public Safety and Correctional Services shall designate four State correctional facilities to participate in the Pilot Program.

c) Each correctional facility participating in the Pilot Program shall:

(1) comply with health and wellness standards set by the Secretary of Health for the purposes of the Pilot Program;

(2) offer plant–based meal options, plant–based food options, and plant–based beverages for general consumption by:

(i) providing at least one plant–based meal option and at least one plant–based beverage to all inmates at each meal at least 1 day each week; and

(ii) offering one plant–based meal option and one plant–based beverage option to an inmate at every meal on request;

(3) in consultation with the Secretary of Health, provide information and resources to health care providers who provide services in the correctional facility on available training and board certification on the delivery of plant–based nutrition, prescriptions made under the Produce Prescription Program established under 7 U.S.C. § 7517(c), and lifestyle medicine with the goal of reducing health care costs and improving the health condition and outcomes of patients;

(4) provide information to all inmates and to new inmates on an inmate’s first day in the facility on the benefits and availability of plant–based meal options, plant–based food options, and plant–based beverages, including commissary options;

(5) in consultation with the Secretary of Health, establish guidelines that increase the availability of plant–based meal options, plant–based food options, and plant–based beverages in alternative food locations in the facility, including vending machines and inmate commissaries, including guidelines for:

(i) ensuring that plant–based food options are offered at the same or a lower cost when compared to nonplant–based food options; and

(ii) lowering the amount of sodium, saturated fat, and sugar in all foods available in alternative food locations; and

(6) in consultation with the Secretary of Health, establish guidelines for the preparation of plant–based meal options by the facility that considers the taste preferences of the population served, measured by taste–test surveys conducted by each facility surveying a representative sample of individuals served in the facility.
(d) (1) The Secretary of Health shall set health and wellness standards for correctional facilities participating in the Pilot Program that are consistent with guidelines from the American College of Lifestyle Medicine or any other recognized alternative lifestyle authority.

(2) The standards set under paragraph (1) of this subsection may exceed any comparable standards set by federal law.

(e) On or before October 1, 2024, the Secretary of Public Safety and Correctional Services shall report to the Office of Minority Health and Health Disparities and, in accordance with § 2–1257 of the State Government Article, the General Assembly on:

(1) the number of inmates at each facility participating in the Pilot Program who requested plant–based meal and plant–based beverage options;

(2) (i) the health status of the population served:

1. for the 5 years immediately preceding the beginning of the Pilot Program; and

2. at the completion of the Pilot Program;

(ii) the health status information required under item (i) of this item, including:

1. all illnesses experienced by inmates, differentiated by age, gender, race, birth state, and facility location; and

2. any change in illnesses or diagnoses of inmates that may result from the implementation of the health and wellness food standards under subsection (d) of this section or as a result of any other prescribed treatment;

(3) the number of inmates in the Pilot Program who transferred to:

(i) a prison rehabilitation unit;

(ii) a prison hospice unit;

(iii) a hospital; or

(iv) any other outside medical care facility for admissions or procedures related to diagnoses of diabetes, cardiovascular disease, pulmonary disease, cancer, chronic respiratory conditions, and liver disease;

(4) the annual health care cost for:

(i) each of the 5 immediately preceding years before the beginning
of the Pilot Program; and

(ii) each year of the Pilot Program; and

(5) data compared between the Pilot Program and correctional facilities that did not participate in the Pilot Program for the same period.

SECTION 3. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that the health and wellness standards developed by the Maryland Department of Health and the Correctional Facilities Health and Wellness Pilot Program established under Section 2 of this Act be developed, adopted, and implemented using the Department’s existing resources.

SECTION 4. AND BE IT FURTHER ENACTED, That the standards developed by the Maryland Department of Health under Section 2 of this Act shall apply to:

(1) food and beverage contracts entered into or renewed by a facility on or after the effective date of this Act; and

(2) a contract, an agreement, or any other arrangement between a correctional facility and a food and beverage contractor entered into on or before the effective date of this Act if:

(i) the standards can be implemented without an increase of the price for the food or food services charged under the contract, agreement, or other arrangement; or

(ii) the appropriate local government agency approves any price increase for food or food services under the contract, agreement, or other arrangement that would result from the implementation of the standards.

SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2022. Section 2 of this Act shall remain effective for a period of 2 years and, at the end of September 30, 2024, Section 2 of this Act, with no further action required by the General Assembly, shall be abrogated and of no further force and effect.