

# SENATE BILL 36

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(PRE-FILED)

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By: **Senator Benson**

Requested: October 11, 2023

Introduced and read first time: January 10, 2024

Assigned to: Judicial Proceedings

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## A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Deaths in Custody Oversight Board**

3 FOR the purpose of establishing the Maryland Deaths in Custody Oversight Board within  
4 the Governor's Office of Crime Prevention, Youth, and Victim Services to analyze  
5 and make findings and recommendations related to deaths of incarcerated  
6 individuals; requiring the Department of Public Safety and Correctional Services to  
7 provide specific information to the Board; and generally relating to the Maryland  
8 Deaths in Custody Oversight Board.

9 BY adding to

10 Article – State Government  
11 Section 9–3801 through 9–3814 to be under the new subtitle “Subtitle 38. Maryland  
12 Deaths in Custody Oversight Board”  
13 Annotated Code of Maryland  
14 (2021 Replacement Volume and 2023 Supplement)

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

17 **Article – State Government**

18 **SUBTITLE 38. MARYLAND DEATHS IN CUSTODY OVERSIGHT BOARD.**

19 **9–3801.**

20 **(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS**  
21 **INDICATED.**

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (B) "BOARD" MEANS THE MARYLAND DEATHS IN CUSTODY OVERSIGHT  
2 BOARD.

3 (C) "EXECUTIVE DIRECTOR" MEANS THE EXECUTIVE DIRECTOR OF THE  
4 GOVERNOR'S OFFICE OF CRIME PREVENTION, YOUTH, AND VICTIM SERVICES.

5 9-3802.

6 THERE IS A MARYLAND DEATHS IN CUSTODY OVERSIGHT BOARD IN THE  
7 GOVERNOR'S OFFICE OF CRIME PREVENTION, YOUTH, AND VICTIM SERVICES.

8 9-3803.

9 (A) THE BOARD CONSISTS OF THE FOLLOWING MEMBERS:

10 (1) TWO CITIZENS WHO WERE PREVIOUSLY INCARCERATED;

11 (2) TWO FAMILY MEMBERS OF INDIVIDUALS INCARCERATED IN THE  
12 STATE;

13 (3) AT LEAST TWO REPRESENTATIVES FROM COMMUNITY  
14 ORGANIZATIONS THAT FOCUS ON JUSTICE REFORM;

15 (4) AT LEAST ONE LICENSED FORENSIC PATHOLOGIST;

16 (5) AT LEAST ONE LICENSED PSYCHIATRIST; AND

17 (6) ANY OTHER MEMBER DETERMINED AS NECESSARY BY THE  
18 EXECUTIVE DIRECTOR.

19 (B) THE EXECUTIVE DIRECTOR SHALL MAKE APPOINTMENTS TO THE  
20 BOARD AFTER SOLICITING FEEDBACK FROM THE PUBLIC.

21 (C) A MEMBER OF THE BOARD:

22 (1) MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE BOARD;  
23 BUT

24 (2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE  
25 STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

26 9-3804.

1 THE GOVERNOR'S OFFICE OF CRIME PREVENTION, YOUTH, AND VICTIM  
2 SERVICES SHALL PROVIDE STAFF FOR THE BOARD.

3 9-3805.

4 (A) SUBJECT TO AN INVESTIGATION UNDER § 9-602.1 OF THE  
5 CORRECTIONAL SERVICES ARTICLE, FOR EVERY DEATH OF AN INCARCERATED  
6 INDIVIDUAL IN THE STATE, THE BOARD SHALL CONDUCT AN ADMINISTRATIVE  
7 REVIEW AND A CLINICAL MORTALITY REVIEW.

8 (B) THE ADMINISTRATIVE REVIEW SHALL ASSESS THE QUALITY OF  
9 CORRECTIONAL STAFF AND THE EMERGENCY RESPONSE TO THE DEATH OF THE  
10 INCARCERATED INDIVIDUAL, INCLUDING:

11 (1) AN EVALUATION OF THE EMERGENCY RESPONSE TRAINING  
12 PROTOCOL AND PROCEDURES RELEVANT TO THE INCIDENT;

13 (2) SUBJECT TO TITLE 8, SUBTITLE 1 OF THE CORRECTIONAL  
14 SERVICES ARTICLE, AN EVALUATION OF THE FACILITY, INCLUDING:

15 (I) CLEANLINESS;

16 (II) ACCESS TO WINDOWS AND OUTDOOR SPACE; AND

17 (III) AVAILABILITY OF BEDS, FOOD, CLEAN DRINKING WATER,  
18 AND PERSONAL HYGIENE PRODUCTS; AND

19 (3) A REVIEW OF THE EXISTING CLINICAL INFRASTRUCTURE,  
20 INCLUDING:

21 (I) INFIRMARIES AND HEALTH CARE FACILITIES;

22 (II) MENTAL HEALTH SERVICES; AND

23 (III) MEDICATION SERVICES.

24 (C) THE CLINICAL MORTALITY REVIEW SHALL ASSESS THE QUALITY OF  
25 MEDICAL CARE THAT WAS ADMINISTERED TO THE DECEASED INCARCERATED  
26 INDIVIDUAL, INCLUDING A REVIEW OF:

27 (1) THE MEDICAL HISTORY OF THE DECEASED INDIVIDUAL;



1                   (II) MENTAL HEALTH;

2                   (III) DANGER FROM GUARDS, STAFF, OR OTHER INCARCERATED  
3 INDIVIDUALS; AND

4                   (IV) THREATS FROM GUARDS, STAFF, OR OTHER INCARCERATED  
5 INDIVIDUALS; AND

6                   (3) ADMINISTRATIVE REMEDY PROCESS FILINGS.

7           (B) ALL DOCUMENTS SHALL BE SIGNED BY AN OFFICIAL FROM THE  
8 CORRECTIONAL FACILITY.

9 **9-3808.**

10           (A) THE BOARD SHALL ANALYZE ALL DOCUMENTS RECEIVED FROM THE  
11 FACILITY WHERE THE INCARCERATED INDIVIDUAL DIED IN CONJUNCTION WITH ITS  
12 FINDINGS FROM ITS ADMINISTRATIVE AND CLINICAL MORTALITY REVIEWS UNDER  
13 THIS SUBTITLE.

14           (B) BASED ON ITS ANALYSIS, THE BOARD SHALL DEVELOP  
15 RECOMMENDATIONS FOR THE FACILITY TO:

16                   (1) PREVENT FUTURE DEATHS; AND

17                   (2) IMPROVE CARE FOR INCARCERATED INDIVIDUALS.

18           (C) (1) THE BOARD SHALL COMPLETE ITS ANALYSIS NOT LATER THAN 30  
19 DAYS AFTER THE INCARCERATED INDIVIDUAL'S DEATH.

20                   (2) NOT LATER THAN 7 DAYS AFTER THE ANALYSIS IS COMPLETED,  
21 THE BOARD SHALL PUBLISH A SUMMARY OF ITS FINDINGS AND RECOMMENDATIONS  
22 ONLINE.

23           (D) THE BOARD SHALL COMMUNICATE THE FINDINGS AND  
24 RECOMMENDATIONS WITH THE RELEVANT FACILITY AND OVERSEE THE  
25 IMPLEMENTATION OF THE RECOMMENDATIONS.

26 **9-3809.**

27           (A) IF IN ITS INVESTIGATION THE BOARD FINDS THAT THE CORRECTIONAL  
28 FACILITY, OR ANY OF THE STAFF OF THE CORRECTIONAL FACILITY, VIOLATED ANY

1 LAW OR REGULATION, THE BOARD SHALL CREATE A COMPLIANCE PLAN FOR THE  
2 CORRECTIONAL FACILITY.

3 (B) THE COMPLIANCE PLAN SHALL STATE:

4 (1) WHICH LAW OR REGULATION WAS VIOLATED; AND

5 (2) THE TIME PERIOD THAT THE BOARD WILL INSPECT THE FACILITY  
6 TO REEVALUATE COMPLIANCE WITH RELEVANT LAWS OR REGULATIONS.

7 9-3810.

8 THE BOARD SHALL SUBMIT THE FINDINGS AND RECOMMENDATIONS  
9 REQUIRED UNDER § 9-3808 OF THIS SUBTITLE AND THE COMPLIANCE PLAN  
10 REQUIRED UNDER § 9-3809 OF THIS SUBTITLE TO:

11 (1) THE DECEASED INDIVIDUAL'S NEXT OF KIN;

12 (2) THE ATTORNEY GENERAL;

13 (3) THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL  
14 SERVICES;

15 (4) ANY JUDGE PRESIDING OVER A CASE RELATED TO THE  
16 INCARCERATION OF THE DECEASED INDIVIDUAL; AND

17 (5) IN ACCORDANCE WITH § 2-1257 OF THIS ARTICLE, THE SENATE  
18 JUDICIAL PROCEEDINGS COMMITTEE AND THE HOUSE JUDICIARY COMMITTEE.

19 9-3811.

20 THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES SHALL  
21 COLLECT AND REPORT INFORMATION TO THE BOARD IN ORDER FOR THE BOARD TO  
22 PERFORM ITS DUTIES UNDER THIS SUBTITLE.

23 9-3812.

24 THE BOARD SHALL MAINTAIN THE CONFIDENTIALITY OF MEDICAL RECORDS  
25 RECEIVED IN ACCORDANCE WITH THIS SUBTITLE.

26 9-3813.

1           **(A) THE MEDICAL REVIEWS UNDER THIS SUBTITLE APPLY TO HEALTH CARE**  
2 **FACILITIES AT CORRECTIONAL FACILITIES.**

3           **(B) THE MEDICAL REVIEWS UNDER THIS SUBTITLE DO NOT APPLY TO**  
4 **HEALTH CARE FACILITIES NOT LOCATED AT CORRECTIONAL FACILITIES.**

5 **9-3814.**

6           **(A) THE BOARD MAY NOT INTERFERE WITH AN INVESTIGATION BY THE**  
7 **DEPARTMENT OF STATE POLICE UNDER § 9-602.1 OF THE CORRECTIONAL**  
8 **SERVICES ARTICLE OR THE COMMISSION ON CORRECTIONAL STANDARDS UNDER**  
9 **TITLE 8, SUBTITLE 1 OF THE CORRECTIONAL SERVICES ARTICLE.**

10           **(B) THE BOARD SHALL COOPERATE AND COORDINATE WITH:**

11                   **(1) THE DEPARTMENT OF STATE POLICE TO THE EXTENT THE**  
12 **DEPARTMENT OF STATE POLICE REQUESTS COOPERATION AND COORDINATION IN**  
13 **AN INVESTIGATION UNDER § 9-602.1 OF THE CORRECTIONAL SERVICES ARTICLE;**  
14 **AND**

15                   **(2) THE COMMISSION ON CORRECTIONAL STANDARDS TO THE**  
16 **EXTENT THE COMMISSION REQUESTS COOPERATION AND COORDINATION IN A**  
17 **REVIEW UNDER TITLE 8, SUBTITLE 1 OF THE CORRECTIONAL SERVICES ARTICLE.**

18           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
19 October 1, 2024.