

# SENATE BILL 36

E5

(PRE-FILED)

4lr0924  
CF HB 565

---

By: **Senator Benson**

Requested: October 11, 2023

Introduced and read first time: January 10, 2024

Assigned to: Judicial Proceedings

---

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 18, 2024

---

## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 ~~Maryland Deaths in Custody Oversight Board~~ Correctional Services –  
3 Investigation of Suspected Homicide – Reporting

4 FOR the purpose of ~~establishing the Maryland Deaths in Custody Oversight Board within~~  
5 ~~the Governor’s Office of Crime Prevention, Youth, and Victim Services to analyze~~  
6 ~~and make findings and recommendations related to deaths of incarcerated~~  
7 ~~individuals; requiring the Department of Public Safety and Correctional Services to~~  
8 ~~provide specific information to the Board; and generally relating to the Maryland~~  
9 ~~Deaths in Custody Oversight Board.~~ requiring the Department of State Police to post  
10 certain information relating to certain investigations of deaths of incarcerated  
11 individuals on its website; requiring the Department to report to the Governor and  
12 the General Assembly on certain investigations; and generally relating to  
13 investigations of deaths of incarcerated individuals.

14 BY ~~adding to~~ repealing and reenacting, with amendments,  
15 Article – ~~State Government~~ Correctional Services  
16 Section ~~9-3801 through 9-3814 to be under the new subtitle “Subtitle 38. Maryland~~  
17 ~~Deaths in Custody Oversight Board”~~ 9-602.1  
18 Annotated Code of Maryland  
19 ~~(2021~~ (2017 Replacement Volume and 2023 Supplement)

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

---

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



~~Article State Government~~~~SUBTITLE 38. MARYLAND DEATHS IN CUSTODY OVERSIGHT BOARD.~~~~9-3801.~~

~~(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.~~

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

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

~~9-3802.~~

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

~~9-3803.~~

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

~~(1) TWO CITIZENS WHO WERE PREVIOUSLY INCARCERATED;~~

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

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

~~(4) AT LEAST ONE LICENSED FORENSIC PATHOLOGIST;~~

~~(5) AT LEAST ONE LICENSED PSYCHIATRIST; AND~~

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

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

~~(C) A MEMBER OF THE BOARD;~~

1           ~~(1) MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE BOARD;~~  
2 ~~BUT~~

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

5 ~~9-3804.~~

6           ~~THE GOVERNOR'S OFFICE OF CRIME PREVENTION, YOUTH, AND VICTIM~~  
7 ~~SERVICES SHALL PROVIDE STAFF FOR THE BOARD.~~

8 ~~9-3805.~~

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

13           ~~(B) THE ADMINISTRATIVE REVIEW SHALL ASSESS THE QUALITY OF~~  
14 ~~CORRECTIONAL STAFF AND THE EMERGENCY RESPONSE TO THE DEATH OF THE~~  
15 ~~INCARCERATED INDIVIDUAL, INCLUDING:~~

16           ~~(1) AN EVALUATION OF THE EMERGENCY RESPONSE TRAINING~~  
17 ~~PROTOCOL AND PROCEDURES RELEVANT TO THE INCIDENT;~~

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

20           ~~(I) CLEANLINESS;~~

21           ~~(II) ACCESS TO WINDOWS AND OUTDOOR SPACE; AND~~

22           ~~(III) AVAILABILITY OF BEDS, FOOD, CLEAN DRINKING WATER,~~  
23 ~~AND PERSONAL HYGIENE PRODUCTS; AND~~

24           ~~(3) A REVIEW OF THE EXISTING CLINICAL INFRASTRUCTURE,~~  
25 ~~INCLUDING:~~

26           ~~(I) INFIRMARIES AND HEALTH CARE FACILITIES;~~

27           ~~(II) MENTAL HEALTH SERVICES; AND~~

28           ~~(III) MEDICATION SERVICES.~~

1 ~~(C) THE CLINICAL MORTALITY REVIEW SHALL ASSESS THE QUALITY OF~~  
2 ~~MEDICAL CARE THAT WAS ADMINISTERED TO THE DECEASED INCARCERATED~~  
3 ~~INDIVIDUAL, INCLUDING A REVIEW OF:~~

4 ~~(1) THE MEDICAL HISTORY OF THE DECEASED INDIVIDUAL;~~

5 ~~(2) THE MEDICATIONS PRESCRIBED TO THE DECEASED INDIVIDUAL~~  
6 ~~AND WHETHER THE MEDICATIONS WERE ADMINISTERED WHILE THE DECEASED~~  
7 ~~INDIVIDUAL WAS INCARCERATED;~~

8 ~~(3) THE NUMBER OF TIMES THE DECEASED INDIVIDUAL RECEIVED~~  
9 ~~MEDICAL CARE IN THE FACILITY'S HEALTH CARE FACILITY IMMEDIATELY BEFORE~~  
10 ~~THE INCARCERATED INDIVIDUAL'S DEATH; AND~~

11 ~~(4) WHETHER THE DECEASED INDIVIDUAL RECEIVED MEDICAL CARE~~  
12 ~~IN AN OUTSIDE HEALTH CARE FACILITY IMMEDIATELY BEFORE THE INCARCERATED~~  
13 ~~INDIVIDUAL'S DEATH.~~

14 ~~9-3806.~~

15 ~~(A) FOR EVERY DEATH OF AN INCARCERATED INDIVIDUAL IN THE STATE~~  
16 ~~THAT IS DETERMINED TO BE A SUICIDE OR THAT OCCURRED IN CONJUNCTION WITH~~  
17 ~~A MENTAL HEALTH CRISIS, THE BOARD SHALL CONDUCT AN INDEPENDENT REVIEW.~~

18 ~~(B) THE REVIEW SHALL INCLUDE:~~

19 ~~(1) A REVIEW OF THE DECEASED INDIVIDUAL'S FILE; AND~~

20 ~~(2) AN INTERVIEW WITH INDIVIDUALS WHO WERE FAMILIAR WITH~~  
21 ~~THE DECEASED INDIVIDUAL, INCLUDING:~~

22 ~~(I) FAMILY MEMBERS AND CLOSE FRIENDS;~~

23 ~~(II) STAFF; AND~~

24 ~~(III) OTHER INCARCERATED INDIVIDUALS.~~

25 ~~9-3807.~~

26 ~~(A) THE CORRECTIONAL FACILITY WHERE THE DECEASED INDIVIDUAL WAS~~  
27 ~~INCARCERATED SHALL PROVIDE THE FOLLOWING DOCUMENTS TO THE BOARD FOR~~  
28 ~~THE 6 MONTHS IMMEDIATELY PRECEDING THE INCARCERATED INDIVIDUAL'S~~  
29 ~~DEATH:~~

1           ~~(1) INCIDENT REPORTS AND ANY RELATED REBUTTALS;~~

2           ~~(2) COMPLAINTS, WRITTEN OR SPOKEN, CONCERNING:~~

3                 ~~(I) MEDICAL ISSUES OR CONCERNS;~~

4                 ~~(II) MENTAL HEALTH;~~

5                 ~~(III) DANGER FROM GUARDS, STAFF, OR OTHER INCARCERATED~~  
6 ~~INDIVIDUALS; AND~~

7                 ~~(IV) THREATS FROM GUARDS, STAFF, OR OTHER INCARCERATED~~  
8 ~~INDIVIDUALS; AND~~

9           ~~(3) ADMINISTRATIVE REMEDY PROCESS FILINGS.~~

10           ~~(B) ALL DOCUMENTS SHALL BE SIGNED BY AN OFFICIAL FROM THE~~  
11 ~~CORRECTIONAL FACILITY.~~

12 ~~9-3808.~~

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

17           ~~(B) BASED ON ITS ANALYSIS, THE BOARD SHALL DEVELOP~~  
18 ~~RECOMMENDATIONS FOR THE FACILITY TO:~~

19                 ~~(1) PREVENT FUTURE DEATHS; AND~~

20                 ~~(2) IMPROVE CARE FOR INCARCERATED INDIVIDUALS.~~

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

23                 ~~(2) NOT LATER THAN 7 DAYS AFTER THE ANALYSIS IS COMPLETED,~~  
24 ~~THE BOARD SHALL PUBLISH A SUMMARY OF ITS FINDINGS AND RECOMMENDATIONS~~  
25 ~~ONLINE.~~

26           ~~(D) THE BOARD SHALL COMMUNICATE THE FINDINGS AND~~  
27 ~~RECOMMENDATIONS WITH THE RELEVANT FACILITY AND OVERSEE THE~~  
28 ~~IMPLEMENTATION OF THE RECOMMENDATIONS.~~

29 ~~9-3809.~~

1 ~~(A) IF IN ITS INVESTIGATION THE BOARD FINDS THAT THE CORRECTIONAL~~  
2 ~~FACILITY, OR ANY OF THE STAFF OF THE CORRECTIONAL FACILITY, VIOLATED ANY~~  
3 ~~LAW OR REGULATION, THE BOARD SHALL CREATE A COMPLIANCE PLAN FOR THE~~  
4 ~~CORRECTIONAL FACILITY.~~

5 ~~(B) THE COMPLIANCE PLAN SHALL STATE:~~

6 ~~(1) WHICH LAW OR REGULATION WAS VIOLATED; AND~~

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

9 ~~9-3810.~~

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

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

14 ~~(2) THE ATTORNEY GENERAL;~~

15 ~~(3) THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL~~  
16 ~~SERVICES;~~

17 ~~(4) ANY JUDGE PRESIDING OVER A CASE RELATED TO THE~~  
18 ~~INCARCERATION OF THE DECEASED INDIVIDUAL; AND~~

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

21 ~~9-3811.~~

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

25 ~~9-3812.~~

26 ~~THE BOARD SHALL MAINTAIN THE CONFIDENTIALITY OF MEDICAL RECORDS~~  
27 ~~RECEIVED IN ACCORDANCE WITH THIS SUBTITLE.~~

28 ~~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 Article - Correctional Services

19 9-602.1.

20 (A) The Department of State Police shall investigate any death of an incarcerated  
21 individual suspected to be a homicide that occurs while the incarcerated individual is in  
22 the custody of the Division of Correction whether within or outside a correctional facility.

23 (B) ON OR BEFORE DECEMBER 31 EACH YEAR, THE DEPARTMENT OF  
24 STATE POLICE SHALL POST ON ITS WEBSITE AND SUBMIT TO THE GOVERNOR AND,  
25 IN ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT ARTICLE, THE  
26 GENERAL ASSEMBLY A REPORT DETAILING FOR THE PRECEDING CALENDAR YEAR:

27 (1) THE NUMBER OF INVESTIGATIONS COMPLETED BY THE  
28 DEPARTMENT OF STATE POLICE UNDER THIS SECTION; AND

29 (2) THE NUMBER OF CASES REFERRED BY THE DEPARTMENT OF  
30 STATE POLICE FOR PROSECUTION FOLLOWING AN INVESTIGATION COMPLETED  
31 UNDER THIS SECTION.

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

Approved:

---

Governor.

---

President of the Senate.

---

Speaker of the House of Delegates.