

HB1017/933024/1

BY: Judicial Proceedings Committee

AMENDMENTS TO HOUSE BILL 1017
(Third Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 2, strike “**Immigration**”; in line 5, strike “an immigration” and substitute “a”; in line 6, strike “unless certain zoning authority applies”; in line 8, strike “applying this Act retroactively;”; and in line 9, strike “immigration”.

AMENDMENT NO. 2

On page 2, after line 6, insert:

“1-103.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) (i) “DETENTION FACILITY” MEANS ANY BUILDING, FACILITY, OR STRUCTURE USED, IN WHOLE OR IN PART, TO HOUSE OR DETAIN INDIVIDUALS FOR CIVIL OR CRIMINAL VIOLATIONS.

(ii) “DETENTION FACILITY” INCLUDES AN IMMIGRATION DETENTION FACILITY.

(iii) “DETENTION FACILITY” DOES NOT INCLUDE A FACILITY:
1. A. THAT IS A HEALTH CARE FACILITY LICENSED UNDER TITLE 19 OF THE HEALTH – GENERAL ARTICLE; OR

B. THAT IS A RESIDENTIAL CHILD CARE PROGRAM OR CHILD PLACEMENT AGENCY LICENSED UNDER TITLE 5, SUBTITLE 5 OF THE FAMILY LAW ARTICLE; AND

2. WHOSE PRIMARY PURPOSE IS TO PROVIDE HEALTH CARE, TREATMENT, EDUCATION, OR REHABILITATION SERVICES.

(3) "UNIT OF LOCAL GOVERNMENT" MEANS A COUNTY, A MUNICIPALITY, OR THE MARYLAND NATIONAL CAPITAL PARK AND PLANNING COMMISSION.

(B) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE STATE OR A UNIT OF LOCAL GOVERNMENT MAY NOT APPROVE THE CONSTRUCTION OR OPERATION OF A BUILDING, A STRUCTURE, OR OTHER REAL PROPERTY TO BE USED BY A PRIVATE ENTITY AS A DETENTION FACILITY.

(C) A PRIVATE ENTITY MAY NOT OPERATE OR OCCUPY A BUILDING, A STRUCTURE, OR OTHER REAL PROPERTY AS A DETENTION FACILITY.

(D) FOR PURPOSES OF THIS SECTION, A BUILDING, A STRUCTURE, OR OTHER REAL PROPERTY SHALL BE CONSIDERED PROPOSED FOR USE AS A DETENTION FACILITY, REGARDLESS OF HOW THE USE IS DESCRIBED IN AN APPLICATION OR PERMIT REQUEST, IF:

(1) INDIVIDUALS ARE INTENDED TO BE HELD IN INVOLUNTARY CUSTODY AND WILL NOT BE FREE TO LEAVE; OR

(2) THE DESIGN, CONSTRUCTION, OR IMPROVEMENTS INCLUDE FEATURES CONSISTENT WITH SECURE OR INVOLUNTARY CONFINEMENT, INCLUDING:

(I) PERIMETER SECURITY MEASURES DESIGNED TO PREVENT OCCUPANTS FROM LEAVING;

(II) CONTROLLED ACCESS POINTS; OR

(III) LOCKED HOLDING AREAS.

(E) (1) THE ATTORNEY GENERAL MAY BRING A CIVIL ACTION TO ENFORCE THIS SECTION.

(2) THE COURT MAY ISSUE TEMPORARY, PRELIMINARY, OR PERMANENT INJUNCTIVE RELIEF TO PREVENT AN ACT THAT WOULD CONSTITUTE A VIOLATION OF THIS SECTION.

(F) A PRIVATE ENTITY THAT OPERATES OR ATTEMPTS TO OPERATE A DETENTION FACILITY IN VIOLATION OF THIS SECTION IS SUBJECT TO A CIVIL PENALTY NOT EXCEEDING \$10,000 FOR EACH DAY THE VIOLATION CONTINUES.

(G) THE REMEDIES PROVIDED UNDER THIS SECTION ARE IN ADDITION TO ANY OTHER REMEDY AVAILABLE UNDER STATE OR LOCAL LAW.

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

Article – Correctional Services”.

On page 3, after line 27, insert:

(Over)

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“SECTION 3. AND BE IT FURTHER ENACTED, That:

(a) Section 2 of this Act is contingent on any provision of § 1–103 of the Correctional Services Article, as enacted by Section 1 of this Act, being rendered unenforceable by a State or federal court as to any party in any litigation challenging the validity of § 1–103 of the Correctional Services Article.

(b) As soon as practicable after the contingency described in subsection (a) of this section occurring, but no later than 5 days after, the Office of the Attorney General shall promptly notify the Department of Legislative Services.

(c) If notice of the contingency described in subsection (a) of this section is received by the Department of Legislative Services on or before December 31, 2029, Section 2 of this Act shall take effect on the date the notice is received by the Department of Legislative Services in accordance with subsection (b) of this section.

(d) If notice of the receipt of the contingency described in subsection (a) of this section is not received by the Department of Legislative Services on or before December 31, 2029, Section 2 of this Act, with no further action required by the General Assembly, shall be null and void.”;

in line 28, strike “3.” and substitute “4.”; and in the same line, after “That” insert “except as provided in Section 3 of this Act.”.

AMENDMENT NO. 3

On page 2, in line 8, after “(A)” insert “**(1)**”; in the same line, strike the first comma and substitute “**THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.**”

(2) (I) “DETENTION FACILITY” MEANS ANY BUILDING, FACILITY, OR STRUCTURE USED, IN WHOLE OR IN PART, TO HOUSE OR DETAIN INDIVIDUALS FOR CIVIL OR CRIMINAL VIOLATIONS.

(II) “DETENTION FACILITY” INCLUDES AN IMMIGRATION DETENTION FACILITY.

(III) “DETENTION FACILITY” DOES NOT INCLUDE A FACILITY:

1. A. THAT IS A HEALTH CARE FACILITY LICENSED UNDER TITLE 19 OF THE HEALTH – GENERAL ARTICLE; OR

B. THAT IS A RESIDENTIAL CHILD CARE PROGRAM OR CHILD PLACEMENT AGENCY LICENSED UNDER TITLE 5, SUBTITLE 5 OF THE FAMILY LAW ARTICLE; AND

2. WHOSE PRIMARY PURPOSE IS TO PROVIDE HEALTH CARE, TREATMENT, EDUCATION, OR REHABILITATION SERVICES.

(3);

in the same line, strike “UNIT” and substitute “UNIT”; strike beginning with “FOR” in line 13 down through “ENTITY” in line 14 and substitute “TO BE USED BY A PRIVATE ENTITY AS A DETENTION FACILITY”; in line 17, strike “IMMIGRATION” and substitute “PRIVATE”; in lines 22 and 24, in each instance, strike “AN IMMIGRATION” and substitute “A”; and strike beginning with “AN” in line 28 down through “IMMIGRATION” in line 29 and substitute “A”.

On pages 2 and 3, strike beginning with “INDIVIDUALS” in line 31 on page 2 down through “(2)” in line 1 on page 3.

On page 3, in line 3, strike “(3)” and substitute “(2)”; and strike beginning with “AN” in line 15 down through “IMMIGRATION” in line 16 and substitute “A”.

AMENDMENT NO. 4

On page 2, after line 22, insert:

(Over)

“(3) BEFORE ESTABLISHING A ZONING CLASSIFICATION AUTHORIZING PRIVATE DETENTION FACILITIES, THE STATE OR A UNIT OF LOCAL GOVERNMENT SHALL:

(I) CONSIDER:

1. CONSISTENCY WITH ANY COMPREHENSIVE PLAN FOR THE SURROUNDING AREA;

2. COMPATIBILITY WITH SURROUNDING LAND USES;

AND

3. THE ABILITY OF LOCAL INFRASTRUCTURE TO ADEQUATELY SUPPORT A DETENTION FACILITY;

(II) PROVIDE NOTICE TO THE PUBLIC OF THE PROPOSED ZONING CLASSIFICATION AT LEAST 120 DAYS BEFORE ENACTING THE CLASSIFICATION; AND

(III) SOLICIT AND HEAR PUBLIC COMMENTS ON THE PROPOSED CLASSIFICATION IN AT LEAST TWO SEPARATE MEETINGS OPEN TO THE PUBLIC.”.

AMENDMENT NO. 5

On page 2, in line 23, strike “(B)” and substitute “(C)”; and in line 27, strike “(C)” and substitute “(D)”.

On page 3, in line 10, strike “(D)” and substitute “(E)”; in line 15, strike “(E)” and substitute “(F)”; and in line 19, strike “(F)” and substitute “(G)”.

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AMENDMENT NO. 6

On page 3, strike in their entirety lines 21 through 27, inclusive.