

SENATE BILL 193

E4, B1, B5

11r0002

(PRE-FILED)

By: **Chair, Judicial Proceedings Committee (By Request – Departmental – Public Safety and Correctional Services)**

Requested: September 21, 2020

Introduced and read first time: January 13, 2021

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Correctional Services – Baltimore City Detention Facilities – Transfer of**
3 **Ownership and Abolishment of the Division of Pretrial Detention and Services**

4 FOR the purpose of abolishing the Division of Pretrial Detention and Services within the
5 Department of Public Safety and Correctional Services; transferring the operation,
6 ownership, and control of certain Baltimore City detention facilities to the City of
7 Baltimore; providing for the commitment of certain persons after a certain date;
8 providing for the transfer of title to and possession and preservation of certain
9 records; providing for the termination of certain employees; requiring the State to
10 provide certain benefits to certain former employees; authorizing the Mayor of
11 Baltimore City to employ a certain employee at a certain salary under certain
12 circumstances; requiring the City of Baltimore and the State to establish a process
13 to assist certain employees in a certain manner; requiring the Mayor of Baltimore
14 City or the Mayor's designee to provide a certain notice to certain employees;
15 authorizing certain employees to present certain grievances in a certain manner
16 until a certain date; providing for certain pension and health insurance benefits for
17 certain former employees; requiring the State to indemnify the City of Baltimore for
18 certain acts and omissions that occur on or before a certain date; providing that a
19 certain employee shall be covered by the Maryland Tort Claims Act on or after a
20 certain date for a certain act or omission; authorizing the Mayor of Baltimore City to
21 assume certain procurement and construction contracts entered into by the State
22 before a certain date; affirming certain contractual obligations; providing for the
23 payment of administrative and operational costs for certain detention facilities for
24 certain fiscal years; requiring the Mayor of Baltimore City and the Secretary of
25 Budget and Management to enter into a memorandum of understanding governing
26 certain matters on or before a certain date; making conforming changes; altering
27 certain definitions; defining a certain term; providing for a delayed effective date for
28 certain provisions of this Act; and generally relating to Baltimore City detention
29 facilities.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY repealing
2 Article – Correctional Services
3 Section 5–101 and 5–102 and the subtitle “Subtitle 1. Definitions; General
4 Provisions”; 5–201, 5–202, and 5–203 and the subtitle “Subtitle 2. Division of
5 Pretrial Detention and Services”; 5–301 and 5–302 and the subtitle “Subtitle
6 3. Pretrial Release Services Program”; 5–401 through 5–406 and the subtitle
7 “Subtitle 4. Baltimore City Detention Center” and the title “Title 5. Division
8 of Pretrial Detention and Services”; and 9–106 and 11–101
9 Annotated Code of Maryland
10 (2017 Replacement Volume and 2020 Supplement)

11 BY repealing and reenacting, without amendments,
12 Article – Correctional Services
13 Section 1–101(a)
14 Annotated Code of Maryland
15 (2017 Replacement Volume and 2020 Supplement)

16 BY repealing and reenacting, with amendments,
17 Article – Correctional Services
18 Section 1–101(j) and (o), 9–104, 9–604, 10–304, 10–701(c)(1)(vi), 10–801(a), (c)(1),
19 and (d), and 11–704
20 Annotated Code of Maryland
21 (2017 Replacement Volume and 2020 Supplement)

22 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
23 That Section(s) 5–101 and 5–102 and the subtitle “Subtitle 1. Definitions; General
24 Provisions”; 5–201, 5–202, and 5–203 and the subtitle “Subtitle 2. Division of Pretrial
25 Detention and Services”; 5–301 and 5–302 and the subtitle “Subtitle 3. Pretrial Release
26 Services Program”; 5–401 through 5–406 and the subtitle “Subtitle 4. Baltimore City
27 Detention Center” and the title “Title 5. Division of Pretrial Detention Services”; and
28 9–106 and 11–101 of Article – Correctional Services of the Annotated Code of Maryland be
29 repealed.

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

32 **Article – Correctional Services**

33 1–101.

34 (a) In this article the following words have the meanings indicated.

35 (j) “Local correctional facility” means a correctional facility that is operated:

36 (1) by one or more counties; [or]

1 (2) **BY BALTIMORE CITY; OR**

2 (3) by a municipal corporation.

3 (o) (1) “State correctional facility” means a correctional facility that is
4 operated by the State.

5 (2) “State correctional facility” includes[:

6 (i)] the Patuxent Institution[;

7 (ii) the Baltimore City Detention Center; and

8 (iii) the centralized booking facility in Baltimore City that is operated
9 by the Division of Pretrial Detention and Services in the Department of Public Safety and
10 Correctional Services].

11 9–104.

12 [(a) This section does not apply to an individual sentenced in Baltimore City.

13 (b)] Notwithstanding any other law, a judge may not sentence an individual to the
14 jurisdiction of the Division for 12 months or less unless:

15 (1) the sentence is for an offense committed by an inmate in a correctional
16 facility under the jurisdiction of the Division; and

17 (2) the inmate is still under the jurisdiction of the Division.

18 9–604.

19 (a) Subject to subsections (c) and (d) of this section, the State shall pay the funeral
20 and burial expenses of an indigent inmate who dies while in the custody of a State
21 correctional facility.

22 (b) The State shall pay the same amount for the funeral and burial expenses of
23 an indigent inmate as the Department of Human Services pays under § 5–415 of the
24 Human Services Article.

25 (c) To be eligible to receive the benefit under this section, the family of an indigent
26 inmate must be known or registered with the Department of Human Services.

27 (d) If the body of an indigent inmate is not claimed within 48 hours after death,
28 the State Anatomy Board shall take control of the body for final disposition in accordance
29 with § 5–406 of the Health – General Article.

1 (e) The Commissioner of Correction[, the Commissioner of Pretrial Detention and
2 Services,] and the Director of the Patuxent Institution shall adopt regulations establishing
3 procedures to carry out this section.

4 10-304.

5 The Board shall administer benefits as provided under this subtitle to an individual
6 who, while an inmate in the Patuxent Institution[, the Baltimore City Detention Center,]
7 or a correctional facility in the Division of Correction:

8 (1) was engaged in work for which wages or a stipulated sum of money was
9 paid by a correctional facility; and

10 (2) sustained a permanent partial disability or permanent total disability:

11 (i) as a result of a personal injury arising out of and in the course of
12 work for which wages or a stipulated sum of money was paid by a correctional facility; and

13 (ii) that incapacitated the individual or materially reduced the
14 individual's earning power in that type of work.

15 10-701.

16 (c) (1) An investigator in the Intelligence and Investigative Division may
17 exercise the powers of a peace or police officer in the State on property that is not owned,
18 leased, operated by, or under the control of the Department when:

19 (vi) engaged in an active and official investigation of an inmate in the
20 custody of the Commissioner of Correction [or the Commissioner of Pretrial Detention and
21 Services], an inmate subject to the jurisdiction of the Patuxent Institution, or an individual
22 sentenced to probation or released on parole or mandatory supervision; or

23 10-801.

24 (a) In this section:

25 (1) "contraband" means any item, material, substance, or other thing of
26 value that:

27 (i) is not authorized for inmate possession by the Commissioner of
28 Correction, the Director of Patuxent Institution, [the Commissioner of Pretrial Detention
29 and Services,] or the warden of a State correctional facility; or

30 (ii) is brought into a State correctional facility in a manner
31 prohibited by the Commissioner of Correction, the Director of Patuxent Institution, [the
32 Commissioner of Pretrial Detention and Services,] or the warden of a State correctional

1 facility; and

2 (2) “contraband” includes any other property defined in regulations by the
3 Commissioner of Correction[,] OR the Director of Patuxent Institution[, or the
4 Commissioner of Pretrial Detention and Services].

5 (c) (1) The Commissioner of Correction[,] AND the Director of the Patuxent
6 Institution[, and the Commissioner of Pretrial Detention and Services] shall adopt
7 regulations:

8 (i) to define what property constitutes contraband in State
9 correctional facilities;

10 (ii) to establish procedures for the confiscation of contraband by staff
11 of State correctional facilities; and

12 (iii) to establish procedures governing hearings on the issue of
13 forfeiture of confiscated property.

14 (d) (1) Personal property that is unclaimed within the 30–day holding period
15 established under subsection (b) of this section shall be deemed abandoned property.

16 (2) Abandoned property may be sold, converted to the use of the Division
17 of Correction[,] OR the Patuxent Institution, [or the Division of Pretrial Detention and
18 Services,] or otherwise disposed of in accordance with procedures established by regulation.

19 (3) All claims to abandoned property are absolutely barred.

20 11–704.

21 (a) In this section, [“Commissioner” means the Commissioner of Pretrial
22 Detention and Services] **“BALTIMORE CITY DETENTION FACILITY” INCLUDES:**

23 **(1) THE BALTIMORE CENTRAL BOOKING AND INTAKE CENTER;**

24 **(2) THE BALTIMORE PRETRIAL COMPLEX;**

25 **(3) THE YOUTH DETENTION FACILITY;**

26 **(4) THE METROPOLITAN TRANSITION CENTER;**

27 **(5) THE METROPOLITAN TRANSITION HOSPITAL; AND**

28 **(6) OTHER RELATED FACILITIES.**

1 (b) This section applies only in Baltimore City.

2 (c) (1) The **[Commissioner] MAYOR OF BALTIMORE CITY OR THE MAYOR'S**
3 **DESIGNEE** may allow an inmate of **[the] A Baltimore City [Detention Center] DETENTION**
4 **FACILITY** to participate in one of the activities specified in paragraph (2) of this subsection
5 during the period of custody if the participation:

6 (i) is approved by the judge ordering confinement or, if that judge is
7 unable to act, by another judge of the committing court; and

8 (ii) is in accordance with available programs.

9 (2) Subject to paragraph (1) of this subsection, an inmate may:

10 (i) continue regular employment;

11 (ii) obtain new employment;

12 (iii) participate in a training, rehabilitation, or other special program;
13 or

14 (iv) attend an educational institution.

15 (3) (i) An inmate who is authorized to participate in a program under
16 this subsection shall be held in custody between program hours or periods.

17 (ii) The **[Commissioner or Commissioner's] MAYOR OF**
18 **BALTIMORE CITY OR THE MAYOR'S** designee may allow an inmate who is authorized to
19 participate in a program under this subsection to be held in custody through home
20 detention by the use of electronic monitoring devices.

21 (iii) Subject to the availability of funds, the **[Commissioner] MAYOR**
22 **OF BALTIMORE CITY OR THE MAYOR'S DESIGNEE** may contract for halfway houses or
23 other suitable housing facilities or electronic monitoring devices for inmates authorized to
24 participate in a program under this subsection.

25 (d) (1) An inmate who is employed under a work release program shall
26 surrender to the **[Commissioner or Commissioner's] MAYOR OF BALTIMORE CITY OR**
27 **THE MAYOR'S** designee the total earnings of the inmate under the program, less payroll
28 deductions required by law.

29 (2) From the net earnings of the inmate, the **[Commissioner or**
30 **Commissioner's] MAYOR OF BALTIMORE CITY OR THE MAYOR'S** designee shall deduct
31 in the following order of priority:

32 (i) an amount not to exceed one-third of the inmate's net earnings

1 for the cost [to the State] of providing food, lodging, electronic monitoring devices, and
2 clothing for the inmate;

3 (ii) the actual and necessary food, travel, and other expenses of the
4 inmate when released from actual custody under the program;

5 (iii) the amount, if any, that the inmate is legally obligated to pay for
6 the support of a dependent by court order directed to the [Commissioner] **MAYOR OF**
7 **BALTIMORE CITY OR THE MAYOR'S DESIGNEE**; and

8 (iv) the amount for court-ordered payments for restitution.

9 (3) The [Commissioner or Commissioner's] **MAYOR OF BALTIMORE CITY**
10 **OR THE MAYOR'S** designee shall pay any amount deducted as required by paragraph
11 (2)(iii) of this subsection as the court order directs.

12 (4) The [Commissioner or Commissioner's] **MAYOR OF BALTIMORE CITY**
13 **OR THE MAYOR'S** designee shall:

14 (i) credit to the inmate's account any remaining balance; and

15 (ii) pay the balance in the inmate's account to the inmate on release.

16 (5) If any part of the inmate's final earnings under a work release program
17 are required to satisfy the deductions specified in paragraph (2) of this subsection, the
18 balance of the final earnings shall be forwarded to the inmate within 15 days after the date
19 of release from [the] A Baltimore City [Detention Center] **DETENTION FACILITY**.

20 (e) (1) A court may require an individual who is convicted of a crime to satisfy
21 a fine or court costs by participating in a work program established under the jurisdiction
22 of the Division of Parole and Probation in Baltimore City.

23 (2) An individual who participates in the work program shall receive a
24 credit of at least the federal minimum wage per hour toward the fine or court costs.

25 **SECTION 3. AND BE IT FURTHER ENACTED, That:**

26 (a) Any person committed to the custody of a Baltimore City detention facility, as
27 defined in § 11-704 of the Correctional Services Article, as amended by Section 2 of this
28 Act, as of January 1, 2022, is, on that date, committed to the custody of the Mayor of
29 Baltimore City or the Mayor's designee.

30 (b) (1) On January 1, 2022, title to and possession of all records concerning
31 inmates housed as of that date at Baltimore City detention facilities shall be transferred to
32 the Mayor of Baltimore City or the Mayor's designee.

1 (2) (i) Except as provided in paragraph (1) of this subsection, all
2 administrative, financial, operational, inmate, and other records concerning Baltimore City
3 detention facilities shall be preserved by the State for a period of 5 years or for any other
4 period of time that is agreed to by the State and the Mayor of Baltimore City.

5 (ii) On request, the State shall transfer possession of the records
6 under subparagraph (i) of this paragraph to the Mayor of Baltimore City or the Mayor's
7 designee.

8 (iii) Personnel records shall be made available, on request, to any
9 employee, including a correctional officer, who requires the records in connection with the
10 performance of the employee's official duties.

11 SECTION 4. AND BE IT FURTHER ENACTED, That:

12 (a) In this section, "employee" includes a correctional officer.

13 (b) On December 31, 2021, every employee of a Baltimore City detention facility
14 shall be terminated from State employment.

15 (c) (1) Any sick leave or other benefit that has been earned or accrued by an
16 employee of a Baltimore City detention facility as of December 31, 2021, shall be the sole
17 financial responsibility of the State.

18 (2) In accordance with paragraph (1) of this subsection, the State shall pay
19 whatever money is due to an employee of a Baltimore City detention facility on termination
20 of State employment.

21 (d) Notwithstanding any other provision of local law, on January 1, 2022, the
22 Mayor of Baltimore City may employ, as the Mayor deems necessary, any employee of a
23 Baltimore City detention facility at the same salary received on December 31, 2021, or the
24 salary received at the time of employment, whichever is greater, without further
25 examination or qualification.

26 (e) (1) The City of Baltimore and the State of Maryland shall establish a
27 process to:

28 (i) inform and advise employees of Baltimore City detention
29 facilities of their employment status and the terms and conditions of employment, if any,
30 with Baltimore City; and

31 (ii) offer counseling as to the range of options available.

32 (2) Employees of Baltimore City detention facilities who will not be
33 employed on January 1, 2022, by Baltimore City shall be given 2 weeks' advance notice by
34 the Mayor of Baltimore City or the Mayor's designee that they will not be employed on
35 January 1, 2022, by Baltimore City.

1 (3) This section may not be construed to create any right of employment
2 with the City of Baltimore.

3 (f) (1) All employees of Baltimore City detention facilities may present
4 grievances as permitted under the State Personnel and Pensions Article of the Annotated
5 Code of Maryland until December 31, 2021.

6 (2) An employee may be represented by an attorney or other designated
7 representative.

8 (g) (1) Except as provided in subsection (h) of this section, each former
9 Baltimore City detention facility employee shall remain a member of the Maryland State
10 Retirement and Pension System.

11 (2) (i) The City of Baltimore shall contribute the annual cost of the
12 pension coverage to the Maryland State Retirement and Pension System.

13 (ii) The cost of the pension coverage under subparagraph (i) of this
14 paragraph shall be based on the contribution rate applicable to all other members, as
15 determined by the Board of Trustees for the State Retirement and Pension System.

16 (h) (1) On retirement, each employee shall receive the same health insurance
17 benefits as other members of the Maryland State Retirement and Pension System.

18 (2) An employee who elects to remain a member of the Maryland State
19 Retirement and Pension System shall not be entitled to receive retiree health insurance
20 benefits from the City of Baltimore.

21 (i) (1) Notwithstanding any other provision of State or local law, a former
22 Baltimore City detention facility employee may elect to enroll in and become a new member
23 of the Employees' Retirement System of the City of Baltimore on July 1, 2024.

24 (2) A former Baltimore City detention facility employee shall be entitled to
25 a vested allowance, as provided for in the Maryland State Retirement and Pension System,
26 to be paid by the State for service credited to the System.

27 (3) On retirement, each employee may elect to participate in either:

28 (i) the State employee health insurance program for retirees, under
29 the same terms and conditions as other State employees as set forth in the State Personnel
30 and Pensions Article; or

31 (ii) the Baltimore City health insurance program for retirees, under
32 the same terms and conditions as other members of the Employees' Retirement System of
33 the City of Baltimore.

1 (4) If a Baltimore City detention facility employee who has elected to enroll
2 in the Employees' Retirement System of the City of Baltimore is not eligible to receive a
3 vested allowance in accordance with paragraph (2) of this subsection, the employee shall
4 receive a cash payment from the State equivalent to the value of the employee accrued
5 benefit in the Maryland State Retirement and Pension System, as determined by the
6 State's actuary.

7 SECTION 5. AND BE IT FURTHER ENACTED, That, effective January 1, 2022, all
8 the rights, title, and interests of the property, assets, licenses, and credits of the Baltimore
9 City detention facilities and any property or other assets used or acquired for the Baltimore
10 City detention facilities is transferred to the City of Baltimore, to be used as directed or
11 authorized by the Mayor of Baltimore City or the Mayor's designee.

12 SECTION 6. AND BE IT FURTHER ENACTED, That:

13 (a) (1) The State shall indemnify and hold harmless the City of Baltimore for
14 any judgments, damages, liens, settlements, consent decrees, and other costs arising from
15 the operations of Baltimore City detention facilities or the acts or omissions of detention
16 facilities employees, officers, or agents that occurred on or before December 31, 2021.

17 (2) On or after January 1, 2022, an employee of a Baltimore City detention
18 facility, including a correctional officer, shall be covered by the Maryland Tort Claims Act
19 for any act or omission that occurred in connection with the performance of the employee's
20 duties on or before December 31, 2021.

21 (b) (1) For purposes of this subsection, "procurement contract" has the
22 meaning stated in § 11-101 of the State Finance and Procurement Article.

23 (2) Before January 1, 2022, the Mayor of Baltimore City may, in the
24 Mayor's discretion, assume by written agreement as assignee any procurement contract
25 entered into by or on behalf of a Baltimore City detention facility before January 1, 2022.

26 (c) This section does not alter or terminate the State's obligation to Baltimore
27 City, or Baltimore City's obligation to the State, with respect to any contract for a capital
28 project awarded before January 1, 2022, including any encumbered balances due.

29 SECTION 7. AND BE IT FURTHER ENACTED, That:

30 (a) (1) The State shall begin to phase out payment of the administrative and
31 operational costs for the Baltimore City detention facilities in fiscal year 2022, and shall
32 complete the phase out by the beginning of fiscal year 2025, in accordance with paragraphs
33 (2) through (5) of this subsection.

34 (2) For fiscal year 2022, Baltimore City shall pay 25% of the administrative
35 and operational costs of the Baltimore City detention facilities.

36 (3) For fiscal year 2023, Baltimore City shall pay 50% of the administrative

1 and operational costs of the Baltimore City detention facilities.

2 (4) For fiscal year 2024, Baltimore City shall pay 75% of the administrative
3 and operational costs of the Baltimore City detention facilities.

4 (5) For fiscal year 2025, Baltimore City shall pay 100% of the
5 administrative and operational costs of the Baltimore City detention facilities.

6 (b) (1) On or before January 1, 2022, the Mayor of Baltimore City and the
7 Secretary of Budget and Management shall enter into a memorandum of understanding
8 governing the provisions of subsection (a) of this section.

9 (2) The memorandum of understanding under paragraph (1) of this
10 subsection shall:

11 (i) include the process for submitting and approving the annual
12 budget of the Baltimore City detention facilities;

13 (ii) specify the manner and frequency in which the funding provided
14 by the State to Baltimore City for the operation of the Baltimore City detention facilities
15 shall be audited; and

16 (iii) address any other matter deemed relevant by the parties.

17 SECTION 8. AND BE IT FURTHER ENACTED, That Sections 1 and 2 of this Act
18 shall take effect January 1, 2022.

19 SECTION 9. AND BE IT FURTHER ENACTED, That, except as provided in Section
20 8 of this Act, this Act shall take effect July 1, 2021.