

SENATE BILL 742

P2, E4, L6

9lr1323
CF HB 224

By: **Senator Pinsky**

Introduced and read first time: February 4, 2019

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **State and Local Government – Correctional Units – Detention Agreements and**
3 **Contracting for Privatization of Facilities**

4 FOR the purpose of prohibiting a correctional unit, with certain exceptions, from
5 contracting with a private contractor or vendor for the ownership, operation, or
6 management of State and local correctional and detention facilities; prohibiting a
7 correctional unit from being reimbursed in an amount greater than a certain per
8 diem rate under a certain detention agreement for the detention of certain persons;
9 defining certain terms; making technical changes; providing for the application of
10 this Act; prohibiting a correctional unit from extending the term of a certain
11 detention agreement by exercising a certain extension option or clause under certain
12 circumstances; and generally relating to correctional units.

13 BY repealing and reenacting, without amendments,
14 Article – Correctional Services
15 Section 1–101(a)
16 Annotated Code of Maryland
17 (2017 Replacement Volume and 2018 Supplement)

18 BY adding to
19 Article – Correctional Services
20 Section 1–101(d–1), 1–202, and 1–203
21 Annotated Code of Maryland
22 (2017 Replacement Volume and 2018 Supplement)

23 BY repealing and reenacting, with amendments,
24 Article – Correctional Services
25 Section 2–401
26 Annotated Code of Maryland
27 (2017 Replacement Volume and 2018 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

Article – Correctional Services

1–101.

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

(D–1) (1) “CORRECTIONAL UNIT” MEANS A UNIT OF STATE OR LOCAL GOVERNMENT THAT IS DIRECTLY RESPONSIBLE FOR THE CARE, CUSTODY, AND CONTROL OF INDIVIDUALS COMMITTED TO THE CUSTODY OF THE UNIT FOR THE COMMISSION OR ALLEGED COMMISSION OF A CRIME OR AN ACT THAT WOULD BE A CRIME IF COMMITTED BY AN ADULT.

(2) “CORRECTIONAL UNIT” INCLUDES:

(I) THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES;

(II) THE DEPARTMENT OF JUVENILE SERVICES; AND

(III) THE OFFICE OF THE SHERIFF OF A COUNTY OR OTHER UNIT OF GOVERNMENT WITH RESPONSIBILITY FOR OPERATING A LOCAL CORRECTIONAL FACILITY OR COUNTY DETENTION CENTER.

1–202.

(A) EXCEPT AS PROVIDED UNDER SUBSECTION (B) OF THIS SECTION, A CORRECTIONAL UNIT MAY NOT CONTRACT WITH A PRIVATE CONTRACTOR OR VENDOR FOR THE OWNERSHIP, OPERATION, OR MANAGEMENT OF A STATE CORRECTIONAL FACILITY, LOCAL CORRECTIONAL FACILITY, OR COUNTY DETENTION CENTER.

(B) A CORRECTIONAL UNIT MAY CONTRACT WITH A PRIVATE CONTRACTOR OR VENDOR FOR:

(1) ANCILLARY SERVICES, INCLUDING COMMISSARY, DENTAL, EDUCATIONAL, MAINTENANCE, MEDICAL, PHARMACY, REPAIR, AND TRANSPORTATION SERVICES;

(2) OTHER SERVICES NOT DIRECTLY RELATED TO THE OWNERSHIP, OPERATION, OR MANAGEMENT OF A STATE CORRECTIONAL FACILITY, LOCAL CORRECTIONAL FACILITY, OR COUNTY DETENTION CENTER; AND

(3) THE OWNERSHIP, OPERATION, OR MANAGEMENT OF A COMMUNITY ADULT REHABILITATION CENTER OPERATED IN ACCORDANCE WITH TITLE 11, SUBTITLE 3 OF THIS ARTICLE.

2–401.

[(a)] In this subtitle [the following words have the meanings indicated.

(b) (1) “Correctional unit” means a unit of Maryland State or local government that is directly responsible for the care, custody, and control of individuals committed to the custody of the unit for the commission or alleged commission of a crime or an act that would be a crime if committed by an adult.

(2) “Correctional unit” includes:

(i) the Department of Public Safety and Correctional Services;

(ii) the Department of Juvenile Services; and

(iii) the office of the sheriff of a county or other unit of government with responsibility for operating a local correctional facility or county detention center.

(c) “Mutual], “**MUTUAL** aid agreement” means a written agreement to establish and carry out a plan to assist in providing temporary services to alleviate an emergency situation at a facility operated by a correctional unit.

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

Article – Correctional Services

1–203.

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

(2) “ALIEN” HAS THE MEANING INDICATED IN 8 U.S.C. § 1101.

(3) (I) “DETENTION AGREEMENT” MEANS AN AGREEMENT OR CONTRACT BETWEEN THE FEDERAL GOVERNMENT AND A CORRECTIONAL UNIT FOR THE DETENTION OF AN ALIEN OR PERSON BELIEVED TO BE AN ALIEN IN A STATE CORRECTIONAL FACILITY, LOCAL CORRECTIONAL FACILITY, OR COUNTY DETENTION CENTER.

1 **(II) “DETENTION AGREEMENT” INCLUDES AN AGREEMENT**
2 **BETWEEN THE DEPARTMENT OF HOMELAND SECURITY AND A CORRECTIONAL UNIT**
3 **IN ACCORDANCE WITH 8 U.S.C. § 1357.**

4 **(B) A CORRECTIONAL UNIT MAY NOT BE REIMBURSED UNDER A DETENTION**
5 **AGREEMENT IN AN AMOUNT GREATER THAN THE PER DIEM REIMBURSEMENT RATE**
6 **UNDER § 9–402 OF THIS ARTICLE.**

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

8 (a) Section 2 of this Act may not be construed to affect a detention agreement
9 entered into before the effective date of this Act.

10 (b) For a detention agreement entered into by a correctional unit before the
11 effective date of this Act, the correctional unit may not extend the term of the detention
12 agreement by exercising an extension option or clause.

13 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect July
14 1, 2019.