

Article 31B

PATUXENT INSTITUTION

1. DEFINITIONS

- (a) In this Article, the following words have the meanings indicated unless the context clearly requires otherwise.
- (b) "Board" means the Board of Patuxent Institution.
- (c) "Board of Review" means the Institutional Board of Review, created by Section 6.
- (d) "Commissioner" means the Commissioner of Correction.
- (3) "Department" means the Department of Public Safety and Correctional Services.
- (f) "Director" means the Director of Patuxent Institution.
- (g) "Eligible person" means a person who (1) has been convicted of a crime and is serving a sentence of imprisonment with at least three years remaining on it, (2) has an intellectual deficiency or emotional unbalance, (3) is likely to respond favorably to the programs and services provided at Patuxent Institution, and (4) can be better rehabilitated through those programs and services than by other incarceration.
- (h) "Evaluation team" means a team of at least three professional employees of the Institution, one of whom shall be a social worker or behavioral scientist, one a psychologist, and one a psychiatrist.
- (i) "Institution" means the Patuxent Institution.
- (j) "Secretary" means the Secretary of Public Safety and Correctional Services.

2. PATUXENT INSTITUTION: CREATION AND PURPOSE

- (a) The Patuxent Institution is created and continued as part of the Department.
- (b) The purpose of the Institution is to provide efficient and adequate programs and services for the treatment and rehabilitation of eligible persons. This shall include a range of program alternatives indicated by the current state of knowledge to be appropriate and effective for the population being served. As an integral part of the program an effective research and development effort should be established and maintained to evaluate and recommend improvements on an on-going basis.

3. BOARD OF PATUXENT INSTITUTION

- (a) There is a Board of Patuxent Institution. It consists of 17 persons appointed as follows:
 - (1) The Administrator of the Mental Hygiene Administration, the Commissioner of Correction, and the Director of Parole and Probation shall serve *ex officio*;

(2) A Professor of Psychiatry at the Medical School of the University of Maryland shall be appointed by the Secretary upon nomination of the President of that university;

(3) A Professor of Psychiatry at the Medical School of the Johns Hopkins University shall be appointed by the Secretary upon nomination of the President of that university;

(4) A competent sociologist or criminologist from the faculty of the University of Maryland shall be appointed by the Secretary upon nomination of the President of that university;

(5) A competent sociologist or criminologist from the faculty of the Johns Hopkins University shall be appointed by the Secretary upon nomination of the President of that university;

(6) A full-time Professor of Constitutional or Criminal Law at the Law School of the University of Maryland shall be appointed by the Secretary upon nomination of the Dean of that law school;

(7) A full-time Professor of Constitutional or Criminal Law at the Law School of the University of Baltimore shall be appointed by the Secretary upon nomination of the Dean of that law school;

(8) Two practicing members of the Maryland Bar with at least five years' experience in the trial of civil or criminal cases and six persons from the general public who are not eligible for any of the other appointments to the Board, shall be appointed by the Secretary with the approval of the Governor and the advice and consent of the Senate.

(b) The members of the Board, other than the *ex officio* members, shall serve a term of four years and are eligible for reappointment. They shall receive a *per diem* compensation for each day spent on official Board business as provided in the State budget.

(c) The Secretary, with the approval of the Governor, may remove any member of the Board for good cause. A vacancy on the Board shall be filled for the unexpired term in the manner set forth in subsection (a).

(d) A majority of the Board shall be a quorum for the transaction of all business.

(e) The Board shall consult with and advise the Director and the Secretary with respect to the operation, programs, services, personnel, and rules and regulations of the Institution.

(f) The Board may summon witnesses and administer oaths, and may petition a court of competent jurisdiction to enforce its summonses.

(g) The Board may authorize any member to execute documents on its behalf.

4. DIRECTOR

(a) The Director is the Chief Administrative Officer of the Institution.

(b) The Director shall be a trained and competent administrator. He shall be appointed by the Secretary from a list of at least two qualified nominees submitted by the Board. The Secretary may reject any list of nominees and request another list. The Director shall serve at the pleasure of the Secretary, and shall receive the salary provided in the State budget.

(c) Subject to the authority of the Secretary, the Board, and the Board of Review, the Director has the authority necessary to enable him to manage

and supervise the institution and to implement its programs and services. With the advice of the Board and subject to the authority of the Secretary, the Director may adopt, amend, and repeal rules and regulations for the Institution that are not inconsistent with law.

5. STAFF

(a) The Institution shall have the following staff:

(1) Two Associate Directors, one of whom is a competent psychiatrist with at least three years' experience in the practice or teaching of psychiatry and one of whom is a competent behavioral scientist with at least three years' experience in the practice or teaching of his specialty. These two Associate Directors shall assist primarily in discharging the diagnostic and treatment functions of the Institution;

(2) An Associate Director who shall assist primarily in discharging the custodial function of the Institution;

(3) At least three additional psychiatrists or clinical psychologists;

(4) At least four trained social workers;

(5) A physician and a dentist; and

(6) The other professional and nonprofessional staff provided in the State budget.

(b) The salaries of all employees of the Institution shall be as provided in the State budget.

(c) The Director, the Associate Directors, all social workers, sociologists, physicians, psychologists, dentists, and other persons in positions that are determined by the Secretary to be professional shall be appointed by the Director, with the approval of the Secretary, and shall not be included in the State Merit System.

6. INSTITUTIONAL BOARD OF REVIEW

(a) There is a Board of Review for the Institution. It consists of:

(1) The Director;

(2) The three Associate Directors;

(3) The Professor of the University of Maryland School of Law, the Professor of the University of Baltimore School of Law, and one of the two members of the Maryland Bar who are members of the Board; and

(4) A sociologist appointed by the Board from the faculty of an accredited institution of higher education in Maryland.

(b) In the absence of the Director or an Associate Director, the Board shall appoint a substitute member of the Board of Review from among the professional staff of the Institution, to serve during the period of the Director's or Associate Director's absence.

(c) Five members of the Board of Review, including at least one who is also a member of the Board, constitutes a quorum.

(d) Employees of the Institution who are members of the Board of Review or who attend its meetings or work as advisors to the Board of Review shall serve in that capacity as part of their regular duties without additional compensation. The other members of the Board of Review shall receive *per diem* compensation for each day spent in the duties of the Board of Review as provided in the State budget.

(e) The Board of Review shall perform the duties set forth in this article.

7. CONFLICT OF INTERESTS

(a) A member of the Board or the Board of Review, the Director, or employee of the Institution may not:

(1) Be directly or indirectly concerned or interested in any contract, purchase, or sale made by or for the Institution or an inmate of the Institution;

(2) Accept any reward or gift or a promise of a reward or gift from any person interested in a contract, purchase, or sale made by or for the Institution or an inmate of the Institution; or

(3) Accept any reward, gift, devise, or bequest, or a promise of a reward, gift, devise, or bequest from an inmate of the Institution or from anyone on his behalf.

(b) A reward, gift, devise, bequest, or promise accepted in violation of this section is void. A contract, purchase, or sale in which a person has an interest prohibited by subsection (a) is voidable by the State whether or not the State is a party to it.

(c) A member of the Board, the Director, and an employee of the Institution shall report to the Director or a Board member any violation of subsection (a) within his knowledge.

(d) A violation of this section constitutes misconduct in office and is grounds for removal from office or employment.

8. REFERRAL FOR EVALUATION

(a) Any person who is serving a sentence of imprisonment following conviction of a crime, has more than three years remaining to serve on his sentence, and has not been evaluated by or confined at the Institution within the preceding three years may be referred by the Commissioner to the Institution for evaluation as to whether he is an eligible person upon recommendation of the sentencing court, upon application to the Commissioner by the State's Attorney of the county in which the person was last convicted, upon application by the inmate, or upon recommendation of his staff.

(b) Within six months after referral, the person shall be examined by an evaluation team. Before proceeding with the examination, the evaluation team shall assemble and review all available and relevant information about the person provided for in Section 13.

(c) Based upon this information and its examination of the person, the evaluation team shall determine whether in its opinion, or in the opinion of a majority of the team, the person is an eligible person. The evaluation team shall state its findings in a written report which shall be delivered to the Director. The report shall state in detail the reasoning supporting the team's conclusion with respect to each of the criteria for an eligible person set forth in Section 1 (g).

9. TRANSFER TO INSTITUTION

(a) If the evaluation team concludes that the person is not an eligible person, the Director shall notify the Commissioner and send to him a copy

of the team's report. Within 30 days after that notice, the person shall be delivered to the appropriate correctional facility designated by the Commissioner.

(b) If the evaluation team concludes that the person is an eligible person, the Director shall notify the Commissioner, and the person shall remain at the Institution for treatment.

(c) An individualized written treatment plan including treatment goals* shall be prepared, filed with the Director, and implemented for each eligible person. The treatment plan and the inmate's progress under it shall be reviewed by the Director or an Associate Director for treatment at appropriate intervals but at least every six months.

(d) A person's status as an eligible person and his progress under his treatment plan shall be reviewed by the Board of Review following a new evaluation by an evaluation team at least once a year. The Board of Review shall make appropriate written recommendations for the future treatment and status of the person following its review. A copy of these recommendations shall be maintained as part of the person's file.

(e) A surgical operation may not be performed as part of the psychotherapeutic treatment of an eligible person unless (1) authorized by the Director and the Board, and (2) with the written consent of the eligible person.

(f) A person transferred to the Institution for evaluation or treatment remains in the custody of the Division of Correction and under the sentence imposed on him, but he is subject to the immediate control of the Institution and its staff.

10. LEAVE OF ABSENCE

(a) Persons transferred to the Institution for treatment are eligible for the work release and leave of absence programs provided for in Sections 700A through 700D-1 of Article 27 of the Code. The functions of the Warden or Superintendent and the Commissioner under those sections shall be performed by the Board of Review with respect to persons confined in the Institution.

(b) In addition to these programs the Board of Review may grant extended leave to an eligible person for a period not to exceed one year if the Board of Review concludes that the extended leave (1) will not impose an unreasonable risk on society and (2) will assist in the treatment and rehabilitation of the eligible person. The Board of Review may attach reasonable conditions to the extended leave, at any time make reasonable and appropriate modifications of these conditions, and revoke the leave if it finds that the person has violated a condition of the leave.

11. RELEASE FROM INSTITUTION

(a) A person confined at the Institution shall be released upon expiration of his sentence in the same manner and subject to the same conditions as if he were being released from a correctional facility. The Director shall notify

*Actual Statutory language reads "An individualized written treatment including treatment goals plan shall be prepared . . .". The phrase . . . including treatment goals . . . was improperly inserted before the word "plan". This error has been corrected in the body of the text for clarity.

the Commissioner 30 days prior to the release.

(b) At any time after transfer of a person to the Institution for treatment as an eligible person but prior to the expiration of the person's sentence, the Board of Review, upon review of the person may take the following action:

(1) If the Board of Review concludes that the person is no longer an eligible person but should remain confined until released on parole in accordance with normal parole commission standards or expiration of his sentence or the inmate requests a transfer in writing, the Director shall notify the Commissioner and send him a copy of the evaluation team's report. Within 90 days after that notice, the person shall be delivered to the appropriate correctional facility designated by the Commissioner. This transfer shall not affect any right to parole consideration that the person may then have.

(2) If the Board of Review concludes that (1) it will not impose an unreasonable risk on society and (2) it will assist in the treatment and rehabilitation of the eligible person, it shall grant a parole from the Institution for a period not exceeding one year. The Board of Review may attach reasonable conditions to the parole, at any time make reasonable and appropriate modifications of these conditions, and revoke the parole if it finds that the person has violated a condition of the parole. The Board of Review shall review the person's status prior to the expiration of the parole period, and may extend the parole.

(c) If a person has successfully completed three years on parole without violation, and the Board of Review concludes that he is safe to be permanently released, it may, through the Director, petition the court that last sentenced the person to (1) suspend the person's remaining sentence and terminate parole supervision upon the conditions the court deems appropriate or (2) vacate the person's remaining sentence. Notice of this petition shall be served upon the State's Attorney that last prosecuted the person, and the State's Attorney shall be a party to the proceeding. After a hearing, the court may either grant or deny the relief requested in the petition.

12. CREDITS AGAINST SENTENCE

A person transferred to the Institution for evaluation or treatment shall receive full credit against his sentence for the time spent at the Institution, including allowances or disallowances under Section 700 of Article 27 of the Code as determined by the Commissioner.

13. PERSONAL RECORD

(a) The Institution shall compile and maintain a complete record and history of each person transferred to it for evaluation or treatment. This shall include, to the extent not prohibited by Federal law, and to the extent they are physically available:

(1) Police reports and other relevant information concerning the crime of which he was most recently convicted and the sentence imposed upon that conviction;

(2) The person's prior criminal and juvenile history, and all relevant records concerning it;

(3) Presentence Investigation, parole, probation, and other reports that have been prepared concerning him;

(4) School records;

(5) Information concerning the person's prior medical and mental health history, including relevant medical and hospital records and reports; and

(6) All other relevant information, records, and reports concerning the person's social, physical, or mental condition and history.

(b) The Institution shall also record a full and accurate description of each person transferred to it for treatment, including photographs. The Institution may adopt the Bertillon or any other accurate method of description, measurement, and registration.

(c) All State and local officials and agencies shall cooperate with the Institution, and shall, promptly upon request, furnish or cause to be furnished to the Institution the information, records, and reports in their possession in order that the Institution may comply with this Section. The provisions of Section 3 – 828 (B) of the Courts Article do not apply with respect to a request made for juvenile records pursuant to this Section.

(d) To the extent that any records, reports, and information compiled pursuant to this Section are legally confidential, they shall remain confidential, and may not be disclosed to any person or agency except:

(1) The Commissioner or his authorized staff;

(2) The Division of Parole and Probation;

(3) The Maryland Parole Commission;

(4) A State's Attorney, when required in the prosecution or defense of a proceeding in court;

(5) A Federal, State, or local law-enforcement officer upon a written request signed by an authorized commanding officer of the law-enforcement agency certifying that the information is needed for a pending investigation;

(6) An authorized correctional official or probation officer of the United States or a state, district, or territory of the United States if that jurisdiction has made reciprocal provision by law for the furnishing of similar information to comparable officials of this State;

(7) The Attorney General of Maryland; and

(8) The Inmate Grievance Commission to the extent relevant to a matter pending before it, and with the written consent of the person to whom the information pertains.

(e) Confidential information may be disclosed under subsection (d) only if the Director is reasonably assured and convinced that:

(1) It will be used solely for the legitimate purposes of the person or agency receiving it;

(2) It will not be used for any improper or unauthorized purpose; and

(3) It will not be further disseminated to any person or agency not authorized to receive it under subsection (d).

(f) Juvenile records obtained pursuant to subsection (c) may not be disclosed to any person or agency except those listed in subsection (d) (1), (2), and (3), and then only in accordance with subsection (e).

14. SUPPLYING "CONSUMING INSTITUTIONS"

The Director may determine from time to time whether, and to what extent, persons in the custody of the Institution and selected by the Director, shall supply goods, wares, merchandise and produce required to be purchased by "consuming institutions" as defined in Article 27, Section 680 of the Annotated Code of Maryland. All such activities shall be conducted in accordance with the provisions of Article 27, Section 680 of the Annotated Code of Maryland.

15. FEDERAL GRANTS

Upon the approval of the Board of Public Works, the Director of Patuxent Institution may apply for and receive from the Federal Government or any board, bureau, commission, department or other agency thereof any funds, chattels, or foodstuffs by way of grant or loan that may be available to be used in the establishment, maintenance or program of the Institution.

16. TRANSITION PROVISIONS

(a) Each person transferred to the Institution for evaluation prior to July 1, 1977, but who has not been committed to the Institution shall be evaluated and dealt with in accordance with the provisions of this Article.

(b) (1) Each person committed to the Institution prior to July 1, 1977, shall, within 90 days after July 1, 1977, have the original sentence that was suspended upon his commitment to the institution reimposed as of the time it was originally entered, with credit for time spent at the Institution.

(2) Each such person shall be released when the reimposed sentence has expired.

(3) Each person whose reimposed sentence has not expired upon its reimposition shall be reevaluated by January 1, 1978, and dealt with in accordance with the provisions of this Article, except that such a person may be retained at the Institution notwithstanding that he has less than three years remaining to serve on the reimposed sentence. Any person transferred to the Division of Correction after reevaluation who is eligible for parole consideration by the Maryland Parole Commission upon the date of transfer shall have a hearing in accordance with Article 41, Section 110 within 90 days after the transfer.

This Act shall take effect July 1, 1977.