

HOUSE BILL 565

E5

4lr2935
CF SB 36

By: **Delegates Simmons, Davis, Fair, Pasteur, Phillips, Roberson, Terrasa, Wilkins, and Young**

Introduced and read first time: January 24, 2024

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 3, 2024

CHAPTER _____

1 AN ACT concerning

2 ~~**Maryland Deaths in Custody Oversight Board**~~
3 **Correctional Services – 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) MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE BOARD;~~
~~BUT~~

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

~~9-3804.~~

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

~~9-3805.~~

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

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

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

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

~~(I) CLEANLINESS;~~

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

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

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

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

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

~~(III) MEDICATION SERVICES.~~

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

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

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

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

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

~~9-3806.~~

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

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

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

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

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

~~(II) STAFF; AND~~

~~(III) OTHER INCARCERATED INDIVIDUALS.~~

~~9-3807.~~

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

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

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

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

~~(II) MENTAL HEALTH;~~

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

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

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

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

~~9-3808.~~

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

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

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

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

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

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

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

~~9-3809.~~

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

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

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

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

~~9-3810.~~

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

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

~~(2) THE ATTORNEY GENERAL;~~

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

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

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

~~9-3811.~~

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

~~9-3812.~~

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

~~9-3813.~~

~~(A) THE MEDICAL REVIEWS UNDER THIS SUBTITLE APPLY TO HEALTH CARE FACILITIES AT CORRECTIONAL FACILITIES.~~

~~(B) THE MEDICAL REVIEWS UNDER THIS SUBTITLE DO NOT APPLY TO HEALTH CARE FACILITIES NOT LOCATED AT CORRECTIONAL FACILITIES.~~

~~9-3814.~~

~~(A) THE BOARD MAY NOT INTERFERE WITH AN INVESTIGATION BY THE DEPARTMENT OF STATE POLICE UNDER § 9-602.1 OF THE CORRECTIONAL SERVICES ARTICLE OR THE COMMISSION ON CORRECTIONAL STANDARDS UNDER TITLE 8, SUBTITLE 1 OF THE CORRECTIONAL SERVICES ARTICLE.~~

~~(B) THE BOARD SHALL COOPERATE AND COORDINATE WITH:~~

~~(1) THE DEPARTMENT OF STATE POLICE TO THE EXTENT THE DEPARTMENT OF STATE POLICE REQUESTS COOPERATION AND COORDINATION IN AN INVESTIGATION UNDER § 9-602.1 OF THE CORRECTIONAL SERVICES ARTICLE; AND~~

~~(2) THE COMMISSION ON CORRECTIONAL STANDARDS TO THE EXTENT THE COMMISSION REQUESTS COOPERATION AND COORDINATION IN A REVIEW UNDER TITLE 8, SUBTITLE 1 OF THE CORRECTIONAL SERVICES ARTICLE.~~

Article – Correctional Services

9-602.1.

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

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

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

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

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

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.