

SENATE BILL 786

E5, D3

5lr3241
CF HB 1011

By: **The President (By Request – Office of the Attorney General)**

Introduced and read first time: January 27, 2025

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Correctional Services – Private Detention Facilities – Deprivation of Rights,**
3 **Privileges, and Immunities**

4 FOR the purpose of prohibiting a person from depriving an individual in a private detention
5 facility of certain rights, privileges, or immunities; authorizing the Office of the
6 Attorney General to investigate a violation of this Act; requiring the Office of the
7 Attorney General to provide the local governing body of a certain county with certain
8 information in writing under certain circumstances; authorizing the Office of the
9 Attorney General to file a civil action against a person for a violation of this Act under
10 certain circumstances; and generally relating to private detention facilities and the
11 deprivation of rights, privileges, and immunities.

12 BY adding to
13 Article – Correctional Services
14 Section 1–202
15 Annotated Code of Maryland
16 (2017 Replacement Volume and 2024 Supplement)

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

19 **Article – Correctional Services**

20 **1–202.**

21 **(A) IN THIS SECTION, “PRIVATE DETENTION FACILITY” MEANS A FACILITY**
22 **THAT IS OWNED, MANAGED, OR OPERATED, IN WHOLE OR IN PART, BY A PRIVATE**
23 **ENTITY UNDER A CONTRACT, AN AGREEMENT, OR A MEMORANDUM OF**
24 **UNDERSTANDING WITH ANOTHER PRIVATE ENTITY, THE STATE, A POLITICAL**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



SUBDIVISION OF THE STATE, OR THE UNITED STATES GOVERNMENT TO HOUSE OR
DETAIN INDIVIDUALS IN RELATION TO A VIOLATION OF STATE OR FEDERAL LAW.

(B) A PERSON MAY NOT DEPRIVE AN INDIVIDUAL HOUSED OR DETAINED IN
A PRIVATE DETENTION FACILITY OF ANY RIGHT, PRIVILEGE, OR IMMUNITY SECURED
OR PROTECTED BY THE UNITED STATES CONSTITUTION, THE MARYLAND
CONSTITUTION, THE MARYLAND DECLARATION OF RIGHTS, OR ANY STATE OR
FEDERAL LAW.

(C) (1) THE OFFICE OF THE ATTORNEY GENERAL MAY INVESTIGATE
CONDUCT THAT CONSTITUTES A VIOLATION OF THIS SECTION.

(2) TO INVESTIGATE A VIOLATION OF THIS SECTION, THE OFFICE OF
THE ATTORNEY GENERAL MAY:

(I) ISSUE SUBPOENAS;

(II) ADMINISTER OATHS;

(III) COMPEL THE ATTENDANCE AND TESTIMONY OF WITNESSES;

(IV) COMPEL PRODUCTION OF RECORDS, BOOKS, PAPERS,
CONTRACTS, AND OTHER DOCUMENTS;

(V) ENTER A PRIVATE DETENTION FACILITY AND ANY AREA
WITHIN A PRIVATE DETENTION FACILITY; AND

(VI) CONDUCT PRIVATE INTERVIEWS WITH ANY INDIVIDUAL
DETAINED IN A PRIVATE DETENTION FACILITY.

(3) A SUBPOENA ISSUED UNDER THIS SUBSECTION SHALL BE SERVED
BY:

(I) CERTIFIED MAIL, RETURN RECEIPT REQUESTED;

(II) ANY ADULT WHO IS NOT A PARTY TO THE PROCEEDING; OR

(III) THE SHERIFF OR DEPUTY SHERIFF OF THE COUNTY IN
WHICH THE SUBPOENA IS ISSUED.

(4) IF A PERSON FAILS OR REFUSES TO COMPLY WITH A SUBPOENA,
THE OFFICE OF THE ATTORNEY GENERAL MAY APPLY TO A CIRCUIT COURT IN THE
COUNTY IN WHICH THE SUBPOENA WAS SERVED TO ENFORCE COMPLIANCE.

(D) IF THE OFFICE OF THE ATTORNEY GENERAL FINDS THAT A VIOLATION OF THIS SECTION HAS OCCURRED, THE OFFICE OF THE ATTORNEY GENERAL SHALL NOTIFY THE LOCAL GOVERNING BODY OF THE COUNTY IN WHICH THE VIOLATION OCCURRED IN WRITING WITH:

(1) A SUMMARY OF THE ACTIVITY CONSTITUTING THE VIOLATION;

(2) IF THE VIOLATION IS ONGOING OR LIKELY TO REOCCUR, THE REMEDIAL MEASURES NECESSARY TO CORRECT THE VIOLATION OR PREVENT A RECURRENCE OF THE VIOLATION; AND

(3) ANY OTHER RELEVANT INFORMATION.

(E) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, IF THE OFFICE OF THE ATTORNEY GENERAL HAS REASONABLE CAUSE TO BELIEVE THAT A VIOLATION OF THIS SECTION HAS OCCURRED AND IS LIKELY TO REOCCUR, THE OFFICE OF THE ATTORNEY GENERAL MAY FILE A CIVIL ACTION TO ENFORCE THIS SECTION IN THE CIRCUIT COURT FOR ANY COUNTY IN WHICH THE VIOLATION IS ALLEGED.

(2) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE OFFICE OF THE ATTORNEY GENERAL MAY NOT FILE A CIVIL ACTION TO ENFORCE THIS SECTION UNLESS THE OFFICE OF THE ATTORNEY GENERAL HAS:

1. CONDUCTED AN INVESTIGATION IN ACCORDANCE WITH SUBSECTION (C) OF THIS SECTION;

2. PROVIDED NOTICE AT LEAST 30 DAYS BEFORE FILING THE COMPLAINT TO THE LOCAL GOVERNING BODY OF THE COUNTY WHERE THE VIOLATION IS ALLEGED TO HAVE OCCURRED IN ACCORDANCE WITH SUBSECTION (D) OF THIS SECTION; AND

3. MADE REASONABLE EFFORTS TO:

A. NOTIFY AN ALLEGED VIOLATOR OF THE VIOLATION;
AND

B. GIVE THE ALLEGED VIOLATOR A REASONABLE AMOUNT OF TIME TO CORRECT THE VIOLATION.

1 **(II) THE OFFICE OF THE ATTORNEY GENERAL MAY FILE A CIVIL**
2 **ACTION TO ENFORCE THIS SECTION WITHOUT COMPLYING WITH SUBPARAGRAPH (I)**
3 **OF THIS PARAGRAPH IF THE OFFICE OF THE ATTORNEY GENERAL DETERMINES**
4 **THAT A DELAY IN THE CIVIL ACTION WOULD POSE AN IMMINENT AND SERIOUS**
5 **THREAT TO LIFE, HEALTH, OR PUBLIC SAFETY.**

6 **(3) AS PART OF A CIVIL ACTION TO ENFORCE THIS SECTION, THE**
7 **OFFICE OF THE ATTORNEY GENERAL SHALL CERTIFY IN WRITING WHETHER THE**
8 **OFFICE OF THE ATTORNEY GENERAL HAS COMPLIED WITH PARAGRAPH (2) OF THIS**
9 **SUBSECTION.**

10 **(4) (I) THE COURT MAY AWARD:**

11 **1. ECONOMIC AND NONECONOMIC DAMAGES TO ANY**
12 **PERSON HARMED BY THE VIOLATION OF THIS SECTION; OR**

13 **2. DAMAGES FOR THE COST OF ENFORCING THIS**
14 **SECTION.**

15 **(II) IN ADDITION TO ANY AWARD OF DAMAGES IMPOSED BY THE**
16 **COURT, A PERSON WHO VIOLATES THIS SECTION IS SUBJECT TO A CIVIL PENALTY**
17 **NOT EXCEEDING \$25,000 FOR EACH VIOLATION.**

18 **(III) THE COURT MAY GRANT INJUNCTIVE RELIEF TO PROHIBIT**
19 **A PERSON WHO HAS VIOLATED OR IS VIOLATING THIS SECTION FROM CONTINUING**
20 **TO VIOLATE THIS SECTION.**

21 **(IV) THIS SECTION MAY NOT BE CONSTRUED TO LIMIT THE**
22 **DAMAGES OR PENALTIES AVAILABLE UNDER ANY OTHER PROVISION OF LAW.**

23 **SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect**
24 **October 1, 2025.**