

to the local jurisdictions for prisoners sentenced to local detention centers for sentences of between three to eighteen months. The third paragraph provides an alternate reimbursement formula. Thus, of the provisions of subsection (c), only paragraph (1) specifically involves "sentencing". Therefore, "prisoners sentenced under subsection (c)" are those sentenced to local detention centers because the sentence is below the minimum for a sentence to the Division. Under subsection (h), these prisoners must be transferred to the Division if their confinement in the local detention center would cause the rated capacity to be exceeded.

In our view, this result does not conflict with the opening phrase of paragraph (c)(1) which reads: "Notwithstanding any provision of this article or any other law to the contrary." That language was added in the House, before subsection (h) was added, and therefore could not have been drafted with subsection (h) in mind. Instead, the probable intent of that language was to make it clear that the provisions of paragraph (c)(1) were intended to prevail over penalty provisions spread throughout the Code which provide that violators, on conviction, are to be sentenced to "the penitentiary". 4/ In addition, subsection (h) does not require that the judge not sentence the prisoner to the local detention center when that is required by paragraph (c)(1) but that, once sentenced, the prisoner be transferred to the Division.

Very truly yours,
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- 1/ Previously, "local detention centers" served only one county, while "regional detention centers" served more than one.
- 2/ Subsection (h) reads as follows:

(h) If the confinement of prisoners sentenced under subsection (c) of this section in a local detention center, including a local jail, of a county or Baltimore City would cause the rated prisoner capacity of the detention center to be exceeded, the prisoners shall be in the custody of the Commissioner of Correction until the county or Baltimore City has completed construction or enlargement of its detention facilities under § 705 of this article to accommodate the additional prisoners, or until the completion of their sentence, whichever comes first.
- 3/ Prisoners sentenced to local detention centers are actually "sentenced under" § 705G.
- 4/ See, for example Art. 27, § 51.