

throughout this article. See General Revisor's Note to this article.

Also in subsection (a) of this section, the reference to "[a]n agent or employee of a State correctional facility" is substituted for the former vague reference to a person who is "connected with any State penal institution or other institutions" for clarity.

Also in subsection (a) of this section, the reference to a State "unit" is substituted for the former reference to State "institutions" for consistency with terminology used throughout this article. See General Revisor's Note to this article.

The Correctional Services Article Review Committee notes, for consideration by the General Assembly, that the meaning of the reference to a fine of "not less than \$50" in subsection (b) of this section, which is derived from former Art. 27, § 703A, is unclear in light of Art. 27, § 643, which allows a court to impose "a lesser penalty of the same character". The General Assembly may wish to clarify whether subsection (b) was intended to create a mandatory minimum penalty of \$50. The Committee was unable to resolve this question with any certainty because the applicability of Art. 27, § 643 to former Art. 27, § 730A is unclear. In State v. Fisher, 204 Md. 307, 315 (1953), Robertson v. Warden, 212 Md. 646, 648 (in dicta)(1956), Woodfork v. State, 3 Md. App. 622, 624-625 (1967), and Dodson v. State, 14 Md. App. 483, 485-486 (1971), the courts held that Art. 27, § 643 is controlling only with regard to statutory penalty provisions that existed at the time of its adoption in 1906 but that it might also be given effect as to subsequently enacted laws "by construction". The original version of former Art. 27, § 703A was enacted in 1929. See Ch. 473, Acts of 1929. Accordingly, under the above cases, Art. 27, § 643 was not applicable to former Art. 27, § 703A unless it was given effect "by construction". However, the relevancy of those decisions to this issue is unclear because Art. 27, § 643 was repealed and reenacted three times after the last of those cases was decided in 1971. In 1972, § 643 was made applicable to the newly formed District Court. See Ch. 181, Acts of 1972. In 1982, the obsolete reference to the "Criminal Court of Baltimore" was deleted from § 643. See Ch. 820, Acts of 1982. In the 1988 Corrective Bill, the reference to the imposition of a "lesser" penalty was substituted for the former reference to the imposition of a "less" penalty. See Ch. 6, Acts of 1988. In sum, if the General Assembly intended that subsection (b) of this section create a mandatory minimum penalty of \$50, it may wish to amend this provision to expressly state that "notwithstanding Article 27, § 643 of the Code, it is mandatory on the court to impose a penalty of no less than \$50" and that "the mandatory minimum penalty of \$50 may not be suspended". See also § 8-808 of this article and accompanying Revisor's Note.

Defined terms: "Correctional facility" § 1-101

"Person" § 1-101

"State correctional facility" § 1-101