

May 15, 2002

The Honorable Thomas V. Mike Miller
Senate President
State House
Annapolis MD 21401

Dear President Miller:

In accordance with Article II, Section 17 of the Maryland Constitution, I have today vetoed Senate Bill 11 – Local Correctional Facilities – Inmate Transfers.

Senate Bill 11 authorizes the sheriff of a county or a governing body of a county or a municipal corporation that operates a local correctional facility to enter into a memorandum of understanding with another sheriff or political subdivision that operates a correctional facility to authorize the transfer of inmates from one facility to another.

Under current law, a judge may sentence an individual to a local correctional facility if the sentence is for a period of not more than 18 months and the judge imposing the sentence is in a jurisdiction that is a party to the operation and maintenance of the local correctional facility to which the individual is sentenced. Currently, some informal arrangements exist between local detention centers in the State for certain transfers, particularly when a local correctional employee or guard requires detention, in order to avoid an awkward or potentially dangerous situation.

Senate Bill 11 is too broad. The bill generally authorizes local correctional facilities to enter into a memorandum of understanding to permit transfers of inmates between facilities. The bill provides no guidance to local facilities as to what the memorandum of understanding should cover, nor does it place any restrictions on the authority of a facility to transfer an inmate to another facility. In other provisions of current law regarding transfer of inmates, certain restrictions do exist. For example, Section 9-304 of the Correctional Services Article permits the Commissioner of Correction, by agreement, to transfer a minimum security inmate to a local correctional facility "for participation in community-oriented correctional programs." Section 9-303 of the Correctional Services Article authorizes the Commissioner of Correction to accept the transfer of an inmate from a local correctional facility if the inmate "requires special behavioral or medical treatment or maximum security detention" and the local correctional facility is not equipped to provide those services or that type of detention.

No conditions, procedures or restrictions exist in Senate Bill 11. A local jurisdiction would not need any legitimate reason to transfer an inmate. The law provides no guidance on issues such as whether there is a maximum distance that an inmate could be transferred, potentially allowing the relocation of an inmate away from his or her family or visitors in a manner that was not anticipated at the time of sentencing. The bill would also presumably allow one local jurisdiction to decide to become a "host" jurisdiction, and build its capacity to hold inmates and receive inmates from jurisdictions that choose not to take steps to manage their inmate population. There may be legitimate reasons and needs for a local jurisdiction to transfer some of its inmates to other facilities. Senate Bill 11 is too loosely worded, and does not require any demonstration of those reasons or needs.