

Department of Legislative Services
Maryland General Assembly
2020 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1414
Judiciary

(Delegate Wilkins, *et al.*)

Department of Public Safety and Correctional Services - Standards at State
Correctional Facilities

This bill establishes the intent of the General Assembly that the Department of Public Safety and Correctional Services (DPSCS) ensure that every State correctional facility adhere to specified standards relating to compensation to inmates for labor performed, providing jobs for incarcerated individuals, commissary rates, telecommunication service rates, training opportunities, and specified reentry partnerships. By October 1 annually beginning in 2021, DPSCS must report to specified legislative committees on the department's efforts to adhere to these standards. DPSCS must post the established standards in a place accessible to all incarcerated individuals and upload the required report to the department's website. The Governor is *requested and encouraged to* appropriate sufficient funds for each fiscal year beginning in fiscal 2021 to implement the standards set forth in the bill. **The bill takes effect July 1, 2020.**

Fiscal Summary

State Effect: DPSCS advises that it currently complies with the standards enumerated under the bill and that it can post the standards and submit and upload the required report using existing resources; accordingly, the bill is not anticipated to materially affect State finances or operations.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law:

Commission on Correctional Standards: With the advice of the commission on Correctional Standards, the Secretary of Public Safety and Correctional Services has set, by regulation, minimum mandatory standards applicable to security and inmate control, inmate safety, inmate food services, inmate housing and sanitation, inmate rights, classification, hearings, and administrative record keeping. Such standards apply to all State and local correctional facilities.

In addition, the Secretary of Public Safety and Correctional Services, with the advice of the commission, has adopted regulations that establish approved standards applicable to personnel, training, administration, management, planning and coordination, research and evaluation, physical plant, special management inmates, rules and discipline, mail and visiting, reception and orientation, property control, work programs, educational and vocational training, library services, religious services, recreational activities, counseling, release preparation, and volunteers. These standards apply to all State facilities and may be adopted, in whole or in part, by a local correctional facility.

All mandatory minimum standards and approved standards adopted must be consistent with State and federal law.

Commissioner of Correction Annual Report: By October 31 of each year, the commissioner must submit an annual report to the Secretary of Public Safety and Correctional Services and the Governor that states, for each correctional facility in the Division of Correction (DOC):

- its expenses, receipts, disbursements, condition, and progress;
- the number of inmates and each inmate's age, sex, race, place of birth and conviction, crime, and term of confinement;
- the number of inmates who escape, are pardoned, or discharged;
- any remarks and suggestions the commissioner considers necessary to advance the interests of the correctional facility;
- the job classifications for inmate labor in each department and facility under DOC's control;
- the daily wage scale at each prison for each job classification under DOC's authority; and
- the total number of inmates currently employed at facilities under DOC's authority, disaggregated by facility.

The commissioner must also submit with the report an accurate, detailed statement for all receipts and disbursements to DOC during the year. The commissioner must verify the required report and statement. The Governor must submit to the General Assembly the required report and statement and any recommendations that the Governor considers expedient.

Division of Correction Financial and Operational Report: Annually, DOC must submit a complete financial and operational report of Maryland Correctional Enterprises (MCE) and the MCE revolving fund to the Governor, the Secretary of Public Safety and Correctional Services, and the Secretary of Budget and Management. The report must be in the same general form as a report by DOC on its operations and programs and must generally include information about present and projected personnel and compensation requirements of MCE, including inmate employment and compensation. The Governor, the Secretary of Public Safety and Correctional Services, and the Secretary of Budget and Management may include data from the report in the preparation of the budget and capital improvement bill.

Inmate Welfare Funds: Title 10, Subtitle 5 of the Correctional Services Article authorizes the establishment of an inmate welfare fund in each State correctional facility. Each fund is a special, continuing, nonlapsing fund that may be used only for goods and services that benefit the general inmate population, as defined by regulations adopted by DPSCS. Each fund consists of profits derived from the sale of goods through the commissary operation and telephone and vending machine commissions and money received from other sources. Each fund is subject to an audit by the Office of Legislative Audits. Any investment earnings of a fund are not part of the fund. The Comptroller is required to pay out money from each fund as provided in the State budget. Money from the general fund may not be transferred by budget amendment or otherwise to a State correctional facility's inmate welfare fund.

Background: MCE (formerly State Use Industries) provides work and job training for inmates incarcerated in State correctional facilities. MCE produces goods and supplies services at a cost that does not exceed the prevailing average market price. These goods and services are used by local, State, and federal agencies. These goods are also available for use by charitable, civic, educational, fraternal, or religious organizations. In fiscal 2019, MCE employed 1,516 inmates and generated revenues of \$52.5 million.

DPSCS advises that the department adheres to statutory authority and requirements relating to inmate labor and compensation. The Commissioner and the Chief Executive Officer of MCE must establish the compensation rate for inmate labor in MCE, taking into consideration other wage payments and incentives in other programs. Inmate wages are standard throughout State correctional facilities. The starting pay scale is based on skill category, with wages ranging from \$1.25 per day for unskilled positions up to State

minimum wage per hour for MCE work release positions. Within 30 days of intake, case management staff conducts a review to determine which work or program assignments are best suited for each inmate. Education and training opportunities are offered throughout correctional facilities to increase employment opportunities for inmates both while in a correctional facility and on release.

DPSCS also advises that commissary and telecommunication services are provided through contracts that adhere to the State procurement guidelines. The Department of Budget and Management is responsible for the contracts relating to the use of telephones at all State facilities, including State correctional facilities. However, the inmate payphone contract is considered an information technology procurement. The selected proposal must be reviewed and approved by the Department of Information Technology and the Board of Public Works. DPSCS facilities are allowed to retain commissions to support inmate services as provided in statute.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Department of Public Safety and Correctional Services; Department of Budget and Management; Board of Public Works; Department of Legislative Services

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