

Department of Legislative Services
Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE
Revised

House Bill 1458

(Chair, Appropriations Committee)(By Request -
Departmental - Public Safety and Correctional Services)

Appropriations

Judicial Proceedings

Correctional Services - Charges Recommending Discipline - Investigative Period

This departmental bill specifies that, under the Correctional Officers' Bill of Rights (COBR), the 90-day limitation on bringing certain charges against a State correctional officer does not apply to charges that relate to criminal activity under certain circumstances.

Fiscal Summary

State Effect: The bill's changes to COBR do not materially affect State operations or finances. Any costs associated with additional disciplinary charges being brought against State correctional officers cannot be reliably predicted but can be handled with existing budgeted resources.

Local Effect: None.

Small Business Effect: The Department of Public Safety and Correctional Services (DPSCS) has determined that this bill has minimal or no impact on small business (attached). The Department of Legislative Services concurs with this assessment. (The attached assessment does not reflect amendments to the bill.)

Analysis

Bill Summary: The 90-day limitation does not apply to charges that relate to criminal activity if the criminal activity (1) relates to the correctional officer's official duties; (2) arises from events that occur at a correctional facility; or (3) involves an inmate or detainee at a correctional facility.

Current Law: The appointing authority of a State correctional facility may not bring charges recommending the imposition of discipline more than 90 days after IIU or the appointing authority acquires knowledge of the action that gives rise to the discipline.

An appointing authority may not recommend disciplinary action against a correctional officer for excessive use of force against an inmate based solely on the uncorroborated statement of the inmate unless the appointing authority determines that there exists any indicia of reliability to support the inmate's allegation.

These provisions do not limit the right of DPSCS to investigate claims of excessive force against inmates to ensure the safety and security of its correctional facilities, or for any other legitimate purpose.

Background: Chapter 194 of 2010 enacted COBR, which provides for the employment, investigation, and discipline of State correctional officers working in a State correctional facility. COBR extends uniform investigatory and disciplinary protections to officers whose duties relate to the investigation, care, custody, control, or supervision of inmates.

Under Chapter 194, the appointing authority may authorize the emergency suspension of an officer (with pay) if the suspension is in the best interest of the public, inmates, and the correctional facility. However, if an officer is charged with a felony, the appointing authority may impose an emergency suspension of correctional powers without pay. Under COBR, when an emergency suspension of a correctional officer without pay is imposed, the correctional officer is entitled to a prompt hearing, held no more than 90 days after the suspension.

In light of the April 2013 federal grand jury indictment which alleged that correctional officers helped leaders of the Black Guerilla Family smuggle contraband into State correctional facilities, the Special Joint Commission on Public Safety and Security in State and Local Correctional Facilities, in its December 2013 final report to the General Assembly, found that DPSCS should have the ability to authorize the suspension (without pay) of a correctional officer charged with bringing contraband into a correctional facility (regardless of whether the offense is a misdemeanor).

To that end, the commission made the following specific recommendations:

- that State law be amended to authorize the appointing authority of a correctional facility to impose an emergency suspension without pay when a correctional officer is charged with bringing contraband into a correctional facility, irrespective of whether it's a misdemeanor violation; and

- that nonofficer personnel charged with bringing contraband into a correctional facility be suspended (without pay) pending the resolution of the disciplinary matter.

This bill specifically addresses and expands the period of time during which disciplinary actions may be taken after the appointing authority or the Internal Investigative Unit learns of the action giving rise to the imposition of discipline.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Budget and Management, Office of Administrative Hearings, Judiciary (Administrative Office of the Courts), Department of Public Safety and Correctional Services, Department of Legislative Services

Fiscal Note History: First Reader - March 2, 2014
ncs/lgc Revised - House Third Reader - March 28, 2014

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Public Safety – Charges Recommending Discipline – Investigative Period

BILL NUMBER: HB 1458

PREPARED BY: Department of Public Safety and Correctional Services

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS