

Department of Legislative Services
Maryland General Assembly
2016 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 1111

(Senator Pugh)

Judicial Proceedings

Correctional Services - Inmate Savings Accounts

This bill authorizes a State correctional facility to establish, at the request of an inmate, an individual interest-bearing savings account in the inmate's name in a banking institution. The inmate may transfer funds from the inmate's reserve account into the savings account. All funds from the savings account must be paid to the inmate on the inmate's release, less authorized charged disbursements for property destroyed by the inmate and fees assessed for health care services.

Fiscal Summary

State Effect: Although the additional workload generated by the bill cannot be reliably predicted without actual experience under the bill, assuming the number of inmate requests is minimal, the Department of Public Safety and Correctional Services (DPSCS) should be able to implement the bill with existing resources. To the extent DPSCS needs to hire any fiscal accounts clerks to set up accounts at banking institutions and transfer funds between inmate accounts and banking institution accounts, general fund expenditures increase, as discussed below. Revenues are not affected.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law/Background:

Inmate Accounts

Inmates must turn in all money upon entering the Division of Correction (DOC) within DPSCS. The money is placed in an account and the inmate is given a receipt for the money. The account is a record of money (1) the inmate had at entry; (2) sent to the inmate from outside sources; (3) the inmate is paid for work; and (4) taken out of the inmate's account for purchases or other payments. The account follows the inmate as the inmate transfers from institution to institution within DOC.

An inmate account is made up of a reserve account and an active account. The reserve account has money that may not be spent by the inmate and is set up so that the inmate will have money upon release. Some of the inmate's money goes into the reserve account every month until the account reaches a level set by DOC. The inmate must have the permission of the warden of the correctional institution to spend money from the reserve account.

Inmates may spend money from the active account. Money from relatives or other sources goes into the inmate's active account. The inmate can use money from the active account to buy items from the commissary.

An inmate may have a savings account in a bank. The inmate must independently set up such an account through written correspondence with the bank. The inmate then must request that funds are transferred from the inmate's active account to the bank through the DPSCS finance office.

Each correctional institution has a variety of work assignments and jobs that pay a daily wage. Generally, an inmate is not allowed to have money in the inmate's possession unless the inmate is in the pre-release system. This includes cash, checks, money orders, or any other form of currency. In the pre-release units, an inmate may possess spending money.

If the inmate escapes, the inmate's money is held or frozen until the inmate returns or for up to two years and then it is turned over to the State Treasurer's Office. DPSCS may use inmate account money to pay any travel costs to return the inmate after an escape. In addition, inmate accounts may be charged for (1) the reasonable value of any State property that the inmate willfully or maliciously destroys or destroys as the result of gross negligence or (2) any fees assessed under statute for health care services from a medical unit, physician, dentist, or optometrist.

“Banking institution” means an institution that is incorporated under the laws of this State as a State bank, trust company, or savings bank.

Audit History

DPSCS has had a history of audit findings related to unreconciled inmate banking accounts. The current statewide unreconciled amount is down significantly from the \$309,000 amount identified during the 2011 Office of Legislative Audits (OLA) report, yet an unreconciled balance remains, and the department’s reconciliations have not been completed at regular intervals and are not up to date.

The most recent OLA audit reports, issued according to DPSCS’ previous regional organization, were issued in May through October 2015. Two of these audit reports, for the Central and South Regions, indicated that the respective finance offices had not fully reconciled inmate fund records with the corresponding records maintained by the Comptroller. OLA’s most recent reviews of inmate fund reconciliations disclosed consistent positive and negative reconciliations totaling to an approximate aggregate of \$120,000. Since the South Region audit report was released in October 2015, the unreconciled amount for the Jessup Office decreased by \$100,000 following the transfer of funds restricted by the General Assembly for the purpose of reconciling inmate banking accounts. DPSCS has also identified an additional positive balance of approximately \$9,500. The current net department-wide unreconciled amount stands at \$10,723, as shown in **Exhibit 1**.

Exhibit 1
Department of Public Safety and Correctional Services
Unreconciled Inmate Banking Funds

<u>Financial Office</u>	<u>Unreconciled Funds</u>
Jessup Office	-\$181,974
Eastern Correctional Institution Office	73,487
Central Region Office	-2,236
Net Total	-\$110,723
Transfer of funds pursuant to fiscal 2015 budget bill language	\$100,000
Adjusted Net Total	-\$10,723

Source: Office of Legislative Audits; Department of Public Safety and Correctional Services

State Expenditures: General fund expenditures for DPSCS may increase beginning in fiscal 2017 to the extent the additional workload generated by the bill cannot be handled by existing staff.

DPSCS advises that it needs to hire five fiscal accounts clerks (one for each regional office) to act as liaisons between banks and inmates in order to open accounts and coordinate the transfer of funds between inmate accounts and banking institution accounts. The Department of Legislative Services (DLS) advises, however, that the need for staff is not clear at this time. First, DPSCS already employs fiscal accounts clerks that handle inmate accounts, although, as noted above, there have been several issues identified in recent OLA audit reports relating to those accounts. Second, inmates are already allowed to establish accounts with banking institutions, and if they do so, DPSCS handles the transfer of funds from the inmates' active accounts to the banking institution accounts. Third, the number of inmates who will request that DPSCS establish savings accounts with banking institutions under the bill's provisions is unknown. Finally, the bill does not *require* DPSCS to establish such accounts, even if requested. Thus, without actual experience under the bill, the actual increase in workload generated by the bill cannot be predicted with enough certainty to justify hiring additional staff at this time. In addition, the need for five staff (one for each regional office) is unclear, given that DPSCS is in the midst of centralizing its regional finance offices.

Therefore, assuming the number of inmate requests is relatively small, DPSCS should be able to implement the bill with existing resources. DLS notes, however, that, especially given the recent audit findings related to inmate accounts, to the extent that the actual number of inmate requests under the bill is more than what existing staff can handle, general fund expenditures may increase for DPSCS to hire additional fiscal accounts clerks. *For informational purposes only*, for every clerk hired, general fund expenditures increase by approximately \$40,900 in fiscal 2017, which accounts for the bill's October 1, 2016 effective date, and by approximately \$50,000 annually thereafter.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Public Safety and Correctional Services, Department of Legislative Services

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md/lgc

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