

Department of Legislative Services
Maryland General Assembly
2019 Session

FISCAL AND POLICY NOTE
Third Reader

Senate Bill 947

(Calvert County Senators)

Judicial Proceedings

Judiciary

Calvert County - Correctional Officers' Bill of Rights

This bill establishes rights of a correctional officer relating to the employment, investigation, and discipline of correctional officers in Calvert County. The bill's provisions are the same as the provisions of the Correctional Officers' Bill of Rights (COBR) applicable in Charles County.

Fiscal Summary

State Effect: None.

Local Effect: Minimal. Although Calvert County did not respond to requests for information regarding the potential fiscal and operational effects of the bill, the bill's changes are not anticipated to significantly affect the county's operations or finances. Any future impacts arising from decisions of hearing boards cannot be predicted.

Small Business Effect: None.

Analysis

Bill Summary: The bill's provisions do not limit the authority of the Calvert County Sheriff to regulate the competent and efficient operation and management of the sheriff's office by any reasonable means, including transfer and reassignment, if the action is not punitive in nature and the sheriff determines the action to be in the best interests of internal management of that office. The provisions supersede inconsistent provisions of any other State or local law that may conflict with the bill to the extent of the conflict. Any dispute concerning the application or interpretation of the provisions must be resolved by the assistant sheriff.

A correctional officer may not be required or requested to disclose an item of the correctional officer's property, income, assets, source of income, debts, or personal or domestic expenditures, including those of a member of the correctional officer's family or household, unless the information is necessary to investigate a possible conflict of interest with respect to the performance of the correctional officer's official duties, or the disclosure is required by federal or State law. Although a correctional officer may waive in writing any or all rights granted under the bill's provisions, a statute may not abridge and the sheriff's office may not adopt a regulation that prohibits the right of a correctional officer to bring suit that arises out of the correctional officer's duties as a correctional officer.

The correctional officer under investigation must be informed of specified information regarding persons involved in the investigation and interrogation as well as the nature of the investigation. Unless the seriousness of the investigation is of a degree that an immediate interrogation is required, the interrogation must be conducted at a reasonable hour, preferably when the correctional officer is on duty. The sheriff's office may order the correctional officer to submit to blood alcohol tests, blood, breath, or urine tests for controlled dangerous substances, polygraph examinations, or interrogations that specifically relate to the subject matter of the investigation.

The correctional officer has the right to be represented by counsel or another responsible representative of the correctional officer's choice who must be present and available for consultation at all times during an interrogation. The correctional officer may not be threatened with transfer, dismissal, or disciplinary action, and a complete record must be kept of the entire interrogation.

If the investigation or interrogation of a correctional officer results in a recommendation of demotion, dismissal, transfer, loss of pay, reassignment, or similar action that is considered punitive, the correctional officer is entitled to a hearing on the issues by a hearing board before the sheriff takes that action. In connection with a disciplinary hearing, the sheriff or hearing board may issue subpoenas to compel the attendance and testimony of witnesses and the production of books, papers, records, and documents as relevant or necessary.

The hearing board process is bifurcated. First, the board meets to determine guilt. If the officer is found guilty of the charges, a second hearing is held to determine the level of discipline. A correctional officer who has been convicted of a felony is not entitled to a hearing.

A complaint against a correctional officer that alleges brutality in the execution of the correctional officer's duties must be filed within 90 days after the alleged brutality and may not be investigated unless the complaint is sworn to, before an official authorized to administer oaths, by specified individuals. However, the sheriff's office may investigate

any complaint of brutality at any time if the complaint is made by an employee or a member of the sheriff's office.

The sheriff's office may not bring administrative charges against a correctional officer unless the sheriff's office files the charges within one year after the act that gives rise to the charges comes to the attention of the appropriate sheriff's office official; however, the one-year limitation does not apply to charges that relate to criminal activity or brutality. On written request to the sheriff, a correctional officer may have expunged from any file the record of a formal complaint made against the correctional officer if the investigation or hearing resulted in a finding of nonsustained or unfounded, or the correctional officer was exonerated and at least three years have passed since the final disposition by the sheriff's office or hearing board.

The bill does not define "misconduct" and differs from the State COBR with respect to some notifications, timeframes for investigations and the filing of charges, actions of hearing boards, and the final settlement of disputes.

Current Law: Chapter 441 of 2012 provided for identical rights of a correctional officer relating to the employment, investigation, and discipline of correctional officers in Charles County. Chapter 689 of 2008 established a separate COBR in Cecil County. Chapter 128 of 2011, Chapter 190 of 2012, Chapter 93 of 2013, Chapters 30 and 31 of 2013, and Chapter 221 of 2015 included correctional officers in St. Mary's, Garrett, Allegany, Harford, and Carroll counties, respectively, under these same provisions.

Background: In November 2018, the Board of County Commissioners for Calvert County voted to approve inclusion of a bill to establish COBR for correctional officers within the county's legislative requests for consideration by the General Assembly in the 2019 session.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts); Department of Public Safety and Correctional Services; *The Calvert Recorder*; Department of Legislative Services

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