

Department of Legislative Services
Maryland General Assembly
2019 Session

FISCAL AND POLICY NOTE
Third Reader

House Bill 179

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

Appropriations

Finance

Correctional Services - Patuxent Institution - Appointing Authority

This departmental bill clarifies that the Warden of Patuxent Institution within the Department of Public Safety and Correctional Services (DPSCS) is the appointing authority for correctional officers assigned to the institution and staff attached to the office of the warden.

Fiscal Summary

State Effect: None. The change is technical in nature and does not directly affect governmental finances.

Local Effect: None.

Small Business Effect: DPSCS has determined that this bill has minimal or no impact on small business (attached). The Department of Legislative Services concurs with this assessment.

Analysis

Current Law: Patuxent Institution was created in 1951 by statute. It is a maximum security, treatment-oriented correctional facility providing remediation programs and services to youthful offenders, other eligible persons, and mentally ill inmates. Although the institution is a part of DPSCS, it is separate from the Division of Correction (DOC).

Under the State Government Article, an appointing authority is an individual or a unit of government that has the power to make appointments and terminate employment. The

authority to act on behalf of the appointing authority may be delegated, however, this can only be to an employee or officer under the appointing authority's jurisdiction and must be in writing. In addition, an appointing authority may not delegate the authority to make the final decision on the termination of an employee.

Under the Correctional Services Article, the warden is the appointing officer for the officers and other employees of the correctional facility for which the warden oversees. The Commissioner of Correction is the appointing officer for the other officers and employees in DOC. For Patuxent Institution, the director is the appointing authority for employees at the institution who are in the professional service, including each associate director, social worker, sociologist, physician, and psychologist.

Chapter 194 of 2010 provides for rights of a State correctional officer relating to the employment, investigation, and discipline of correctional officers who are employees of DOC working in a State correctional facility. Chapter 194 established exclusive procedures for the appointing authority in the investigation and discipline of a State-employed correctional officer for alleged misconduct.

Background: In the case of *Seay v. Patuxent Institution*, No. 1094 (Md. Ct. Spec. App. Aug. 6, 2018), the Maryland Court of Special Appeals sought to address the question of whether the warden of Patuxent Institution lacked “the authority to terminate Carneilla Seay from her position as a correctional officer” after the Circuit Court for Howard County affirmed Patuxent Institution’s termination of Ms. Seay’s employment as a correctional officer at the facility. The Court of Special Appeals reversed the circuit court’s judgement and remanded the case to the circuit court with instructions to remand the case to the administrative agency.

Additional Information

Prior Introductions: None.

Cross File: None.

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

Fiscal Note History: First Reader - February 7, 2019
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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Correctional Services – Patuxent Institution – Appointing Authority

BILL NUMBER: HB179

PREPARED BY: Rachel Sessa, Director of Government and Legislative Affairs

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