

Department of Legislative Services  
Maryland General Assembly  
2005 Session

FISCAL AND POLICY NOTE

House Bill 314

(Delegate Cadden, *et al.*)

Judiciary

Judicial Proceedings

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Correctional Facilities - Commission on Correctional Standards

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This bill increases the membership of the Commission on Correctional Standards, from 11 to 12, by adding one member, appointed by the Governor, who is a State licensed, certified, or registered mental health or medical professional. The bill also allows the commission, after having determined that a correctional facility is in violation of minimum standards (following a letter of reprimand and reinspection), to periodically inspect the facility until compliance is attained. Under such circumstances, the commission must send a report of each inspection to the executive and legislative body responsible for the facility.

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Fiscal Summary

**State Effect:** Allowing periodic inspections of facilities in violation of minimum standards, rather than a full standards and performance audit, would provide for reduced costs for the commission, estimated at \$1,500 for each full audit not performed. Any such savings are assumed to be minimal. Any expense reimbursements for the additional commission member could be handled with existing budgeted resources.

**Local Effect:** None.

**Small Business Effect:** None.

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Analysis

**Current Law:** The 11-member Commission on Correctional Standards includes the Attorney General, the Secretary of General Services, and the Secretary of Budget and

Management. With the advice of the commission, 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.

The commission is required to: (1) establish and implement a process to inspect State and local correctional facilities to determine and certify compliance with applicable standards; and (2) determine deadlines for remedial action and reinspection whenever inspection reports indicate noncompliance with applicable standards. The commission may review and act on appeals from staff inspection reports.

Chapter 213 of 2004 provides that if the commission determines that a correctional facility is in violation of minimum, mandatory standards for State and local correctional facilities, the commission must send a compliance plan containing specified information to the facility with a copy to the appropriate executive and legislative body. If, after sending a compliance plan and reinspecting a facility, the commission determines that the facility is still in violation of the minimum, mandatory standards, the commission must send a letter of reprimand containing specified information to the correctional facility, with a copy to the appropriate executive and legislative body.

If, after the commission has sent a letter of reprimand and reinspected the facility, the facility continues to be in violation of the minimum, mandatory standards, the commission must conduct a full standards and performance audit of the facility addressing specified items. If the commission lacks the expertise necessary to perform a part of the full standards and performance audit, the commission may obtain assistance from sources with expertise in the specific standard. If the commission needs to obtain assistance, the correctional facility that is being audited must reimburse the commission for any cost incurred.

After completing an audit, the commission must send a letter to the correctional facility, with a copy to the appropriate executive and legislative body, containing a copy of the audit findings, a date specified for compliance with the audit findings, and other specified information. Within a reasonable time after the date specified for compliance, the commission must conduct an unannounced inspection to verify that the correctional facility has complied with the audit findings.

If, after performing an audit and unannounced inspection and holding a hearing on the issue, the commission determines that a correctional facility has not complied with the audit findings, the commission must: (1) petition a circuit court for a court order requiring the correctional facility to comply with the audit findings; or (2) issue an order to cease operation of the correctional facility or any of its components. The commission must provide to a correctional facility reasonable notice of a hearing and may subpoena witnesses.

**Background:** The commission reviews and approves the audit reports of all correctional facilities. Issues concerning medical practices or mental health services, among others, come before the commission as a result of these audits.

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### **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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