

Department of Legislative Services  
 Maryland General Assembly  
 2020 Session

FISCAL AND POLICY NOTE  
 First Reader

House Bill 1476  
 Judiciary

(Delegate J. Lewis)

Independent Oversight and Review Board for Health Care of Inmates in State  
 Correctional Facilities - Establishment

This bill establishes an Independent Oversight and Review Board for Health Care of Inmates in State Correctional Facilities. The bill establishes the membership and duties of the board and requires the Maryland Department of Health (MDH) to provide staff for the board. By December 31 each year, the board must report its findings and recommendations to the Governor, the Department of Public Safety and Correctional Services (DPSCS), and the General Assembly.

Fiscal Summary

**State Effect:** MDH general fund expenditures increase by *at least* \$385,800 in FY 2021 to staff the board; additional costs for MDH have not been quantified but could be significant. Likewise, general fund expenditures increase, potentially significantly, for DPSCS to work with the board. Future years reflect annualization and elimination of one-time costs. Revenues are not affected.

(in dollars)	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	385,800	463,600	474,900	491,300	508,300
Net Effect	(\$385,800)	(\$463,600)	(\$474,900)	(\$491,300)	(\$508,300)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

**Local Effect:** None.

**Small Business Effect:** None.

## Analysis

**Bill Summary:** The board must:

- be granted access to copies of all policies, procedures, and data obtained by health care providers and DPSCS that relate to all aspects of health care for inmates in State correctional facilities;
- review the policies, procedures, practices, and all relevant data of DPSCS regarding access to and quality of health care services for inmates;
- assess the health care needs of inmates in comparison to non-inmates and review and assess whether inmates' needs are being met by current practices;
- review the policies, procedures, and practices of DPSCS regarding grievances and complaints relating to access to and quality of health care provided to inmates;
- develop (1) an independent and uniform health care grievance and complaint process that can be accessed and used systemically by inmates and reviewed by the board and (2) an implementation process for that process and continual reviews of health care grievances and complaints and requests by the board so that they are ongoing;
- develop (1) an independent and appropriate audit procedure for auditing access to health care services by inmates – to be conducted by the Maryland Health Care Commission (MHCC) and MDH and (2) by January 2021, an implementation process for quarterly audits by MHCC and MDH;
- determine the capital or operational expenditures necessary to address any issues regarding the quality of or access to health care services received by inmates in State correctional facilities; and
- make recommendations regarding changes in policies, practices, procedures, or capital or operational expenditures that are necessary to address any issues regarding the quality of and access to health care received by inmates.

A member of the board may not receive compensation but is entitled to reimbursement for expenses under the standard State travel regulations.

Although the bill does not take effect until October 1, 2020, the board is required to meet monthly from June through December of 2020, and quarterly thereafter.

### **Current Law:**

#### *Commission on Correctional Standards*

With the advice of the commission on Correctional Standards, 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.

#### *Administrative Review Procedure*

The Code of Maryland Regulations establishes an administrative remedy procedure to address inmate complaints concerning conditions of confinement, including medical treatment services. The Administrative Remedy Procedure (ARP) is a formal way to resolve complaints or problems that an inmate has been unable to resolve informally. Inmates may use ARP for all types of complaints except case management recommendations and decisions, Maryland Parole Commission procedures and decisions, disciplinary hearing procedures and decisions, and appeals of decisions to withhold mail. The ARP coordinator is designated by the Commissioner of Corrections to receive, acknowledge, and direct the investigation of complaints under ARP and to maintain all records relating to the complaint. Grievances that are not resolved through ARP are scheduled for hearing through the Office of Administrative Hearings. Full descriptions of the requirements of ARP are in the library at each institution and each institution has an ARP coordinator.

**Background:** The Office of Inmate Health Clinical Services within DPSCS supervises the treatment of offenders under the control and custody of DPSCS. Treatment services include medical care, mental health, dental care, pharmacy services, and substance use disorder care. Overall, the department works with private health care providers through a competitive bidding process and enters into contractual relationships with those providers to deliver health care services.

The total number of inmates and detainees under the jurisdiction of DPSCS is estimated at under 19,000 people in fiscal 2020. The total cost of the DPSCS inmate health care service contracts is expected to exceed \$200 million in fiscal 2021.

**State Expenditures:**

*Maryland Department of Health*

MDH advises that the department does not have the resources or expertise to staff the board with existing resources and needs additional personnel and contractual services to support the board and perform the duties required under the bill. The Department of Legislative Services (DLS) agrees with this assessment.

Thus, MDH general fund expenditures increase by *at least* \$385,847 in fiscal 2021, which accounts for the bill’s October 1, 2020 effective date. This estimate reflects the cost of hiring five full-time permanent positions, including one program manager, one health policy analyst, two program consultant nurses, and one senior program manager to staff the board; review medical records; assess the health care needs of inmates; review DPSCS policies, procedures, and practices; develop an independent health care grievance and complaint process; and provide annual reports to the Governor and the General Assembly. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Positions	5
Salaries and Fringe Benefits	\$359,016
One-time Start-up Costs	24,450
Ongoing Operating Expenses	2,381
<b>Total FY 2021 MDH Expenditures</b>	<b>\$385,847</b>

Future year expenditures reflect full salaries with annual increases and employee turnover and ongoing operating expenses.

However, this estimate does not reflect anticipated additional costs, which could be significant, to develop an audit procedure for auditing access to health care services by inmates, conduct required quarterly audits, or evaluate the potential need for capital expenditures necessary to address any issues regarding the quality of or access to health care services by inmates. MDH advises that these functions would likely be done through contractual services, for which the costs cannot be reliably estimated at this time.

Any expense reimbursements for board members are assumed to be minimal and absorbable within existing budgeted resources.

*Department of Public Safety and Correctional Services*

DPSCS advises the department needs additional permanent staff to gather and report data and information to the board at an estimated cost of approximately \$500,000 annually.

DLS advises that such needs cannot be reliably estimated without actual experience under the bill and could vary depending on the data and information requested by the board.

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### **Additional Information**

**Prior Introductions:** None.

**Designated Cross File:** None.

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

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