

**Department of Legislative Services**  
Maryland General Assembly  
2020 Session

**FISCAL AND POLICY NOTE**  
**First Reader**

Senate Bill 768 (Senator Patterson, *et al.*)

Judicial Proceedings and Education, Health,  
and Environmental Affairs

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**Health - Health and Wellness Standards - Correctional Facilities and Health  
Care Facilities**

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This bill requires the Secretary of Health to adopt specified health and wellness standards for all State and local correctional facilities and related institutions, accredited hospitals, nonaccredited hospitals, accredited residential treatment centers, and nonaccredited residential treatment centers for which the Secretary adopts specified regulations. The Secretary of Public Safety and Correctional services must (1) by October 1, 2021, adopt minimum mandatory standards for inmate food services that comply with the health and wellness standards adopted by the Secretary of Health; (2) adopt training standards for health care providers working in a State or local correctional facility that comply with the health and wellness standards; and (3) by October 1 each year, beginning in 2021, report specified information to the Office of Minority Health and Health Disparities and the General Assembly. The Office of Minority Health and Health Disparities must review the information received from the Secretary of Public Safety and Correctional Services and annually publish it to its website. The bill sets forth required uses for any cost savings realized through implementation of the health and wellness standards.

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**Fiscal Summary**

**State Effect:** General fund expenditures increase minimally, at least in the short term. Any eventual cost savings cannot be reliably estimated. Revenues may be affected.

**Local Effect:** Potential minimal increase in expenditures for local correctional facilities to comply with the standards. Any eventual cost savings cannot be reliably estimated. Revenues are not affected.

**Small Business Effect:** Minimal.

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## Analysis

### **Bill Summary:**

*Health and Wellness Standards:* The Secretary of Health must adopt health and wellness standards that include:

- requiring the facility to offer plant-based meal options, food options, and beverages for general consumption, as specified;
- providing information and resources to health care providers who provide services in the facilities on available training and board certification, as specified;
- for correctional facilities only (1) providing information to all inmates, as specified, on the benefits and availability of plant-based meal options, food options, and beverages, as specified, and (2) guidelines for the preparation of plant-based meal options by each facility that considers the taste preferences of the population served, as specified; and
- guidelines that increase the availability of plant-based meal options, food options, and beverages in alternative food locations in the facility, as specified.

The existing requirement for the Secretary of Health to adopt reasonable rules and regulations that set standards of specified services in the area of dietary matters is expanded to include requiring, by October 1, 2021, that the menus and alternative food locations for specified facilities comply with the health and wellness standards.

*Funding to Develop and Implement the Health and Wellness Standards:* The bill establishes the intent of the General Assembly that the health and wellness standards developed by the Maryland Department of Health (MDH) or adopted and implemented by the Department of Public Safety and Correctional Services (DPSCS) must be developed, adopted, and implemented using the department's existing resources.

*Allocation of Cost Savings:* Any cost savings realized through implementation of the health and wellness standards must be allocated to cover expenses related to obtaining fresh fruits and vegetables, equipment, and training to enable cooking from scratch, as specified. Any remaining cost savings may be used to establish new or improve existing inmate reentry services, including a women's pre-release center.

**Current Law:** Hospitals, nursing homes, and residential treatment centers must be licensed by the State in order to operate. There are various standards and practices that each must meet as a condition of licensure. MDH may conduct inspections to ensure compliance with requirements. MDH may also conduct inspections to investigate and resolve any complaint concerning patient care, safety, medical and nursing supervision, physical

environment, sanitation, or dietary matters. In addition, federal guidelines govern facilities that receive funding through Medicaid and Medicare.

State regulations generally require that the food and nutritional needs of residents in hospitals and nursing homes meet medical orders. Further, by regulation, milk and meat, fish, poultry, or eggs must be offered daily in varying amounts.

The State Advisory Council on Health and Wellness within MDH must (1) promote evidence-based programs for healthy lifestyles and the prevention, early detection, and treatment of chronic disease and (2) make recommendations to MDH related to chronic disease prevention, health, and wellness.

The Secretary of Public Safety and Correctional Services is required to adopt regulations that establish minimum mandatory standards applicable to, among other things, inmate food services. The minimum mandatory standards apply to all State and local correctional facilities. The Secretary is also required to establish approved standards applicable to, among other things, training; the approved standards apply to all State correctional facilities and may be adopted by a local correctional facility. The standards adopted under these provisions must be consistent with federal and State law.

By regulation, the managing official of a correctional facility is responsible for having written policies and procedures, including (1) providing for a menu approved annually by a registered dietitian; (2) ensuring that three meals a day are served with not more than a 14-hour interval between the evening meal and breakfast; and (3) ensuring that the food service operation is licensed and meets State sanitation and health regulations as verified by inspection as required by the health department.

**Background:** There are several plant-based beverages available for consumer purchase. Common beverages include soy, rice, coconut, oat, nut (almond, cashew, hazelnut, and macadamia), quinoa, and hemp.

**State Fiscal Effect:** Although the bill establishes the intent of the General Assembly that the health and wellness standards developed by MDH and adopted or implemented by DPSCS must be developed, adopted, and implemented using the department's existing resources, initial implementation likely results in a minimal increase in general fund expenditures for both MDH and DPSCS. Without actual experience under the bill, it is unclear to what extent health care costs and/or food costs may decrease over time as a result of the bill.

### *Maryland Department of Health*

Although MDH advises that the bill has no fiscal or operational impact on the department, the Department of Legislative Services disagrees. MDH must adopt health and wellness standards for all State and local correctional facilities and related institutions (nursing homes), hospitals, and residential treatment centers for which the department adopts specified regulations. Initial development of the standards likely requires the assistance of at least a contractual expert in plant-based food and meal options and beverages in order to ensure compliance with federal guidelines and nutritional standards.

Over time, food costs for State hospitals and residential treatment facilities may decrease. However, without actual experience under the bill, it is not possible to quantify such savings at this time.

### *Department of Public Safety and Correctional Services*

Until the standards are developed, the bill's effect on DPSCS expenditures relating to inmate food services cannot be reliably estimated. DPSCS currently provides vegetarian meal plans on a daily basis as well as plant-based meal options to regular diet inmates on four out of the five weekly menu cycles. DPSCS advises that providing a plant-based meal on the fifth weekly menu cycle increases costs by up to \$0.55 per meal. Under the bill, DPSCS must provide one plant-based meal option and one plant-based beverage to all inmates at each meal at least one day each week. For fiscal 2019, the average daily population for the Division of Correction was 18,541 inmates. *For illustrative purposes only*, assuming an increase of 10.4 additional plant-based meals offered annually to 18,541 inmates at an increased cost of \$0.55 per meal, general fund expenditures could increase by approximately \$106,055 annually.

Over time, food costs for State correctional facilities may decrease. However, without actual experience under the bill, it is not possible to quantify such savings at this time.

General fund expenditures increase by approximately \$25,000 in fiscal 2021 only to update DPSCS' electronic health system in order to be able to prepare the required annual report.

State revenues may also be affected. According to DPSCS, a decrease in the purchase of meat-based products by State facilities may result in a decrease in revenues for the food processing plant in the Maryland Correctional Enterprises (MCE). MCE operates as a self-supporting agency within DPSCS that includes a food processing plant. Nearly all products produced by MCE's food processing plant are meat-based products. Without actual experience under the bill, any reduction in revenues for MCE cannot be quantified.

### *Allocation of Cost Savings*

Pursuant to the bill, any cost savings realized through implementation of the health and wellness standards must be allocated to cover expenses related to obtaining fresh fruits and vegetables, equipment, and training to enable cooking from scratch using primarily basic ingredients rather than prepared foods. Any remaining cost savings may be used to establish new or improve existing inmate reentry services, including a women's pre-release center. Because any future cost savings resulting from the standards is unknown, the effect of this provision cannot be estimated at this time.

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### **Additional Information**

**Prior Introductions:** None.

**Designated Cross File:** HB 819 (Delegate Hill, *et al.*) - Health and Government Operations and Judiciary.

**Information Source(s):** cities of Baltimore and Bowie; Caroline, Howard, Montgomery, and Prince George's counties; Maryland Association of Counties; Maryland Municipal League; Maryland State Department of Education; Maryland Department of Health; Department of Juvenile Services; Department of Public Safety and Correctional Services; Department of Legislative Services

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