

**Maryland General Assembly  
Department of Legislative Services**

**Proposed Regulations  
Department of Public Safety and Correctional Services  
(DLS Control No. 14-321)**

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**Overview and Legal and Fiscal Impact**

These regulations update language to reflect current practice and establish an internal Inmate Welfare Fund Board with oversight for management of inmate welfare funds.

The regulations present no legal issue of concern.

There is no fiscal impact on State or local agencies.

**Regulations of COMAR Affected**

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

Office of the Secretary: Inmate Welfare Fund: COMAR 12.11.09.01-.05

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**Legal Analysis**

**Background**

The Department of Public Safety and Correctional Services recently contracted with a vendor to privatize commissary operations for the department's facilities. The department is adapting regulations to reflect the new privatized model for commissary operations.

**Summary of Regulations**

The regulations update language to reflect current practice under the privatized commissary arrangement, including modifying the specific sources of the fund and the purpose and manner by which inmate welfare funds may be expended. The regulations also establish an internal Inmate Welfare Fund Board with oversight for management of inmate welfare funds. Finally, the regulations generally require that interest earnings from the fund be retained within the fund.

**Legal Issue**

The regulations present no legal issue of concern.

## **Statutory Authority and Legislative Intent**

The department cites §§ 2-109 and 10-502 of the Correctional Services Article as authority for the regulations. Section 2-109 requires the Secretary of the department to adopt regulations to govern the policies and management of correctional facilities. Section 10-502 establishes an inmate welfare fund in each State correctional facility, and states that a fund may be used only for goods and services that benefit the general inmate population as defined by regulations that the department adopts. Additionally, § 10-503 specifies that each inmate welfare fund is to consist of *profits* from commissary and other vendor operations; this regulation recodifies this phrase with the word *commissions* in place of the word profits to reflect the privatization arrangement. Although this change deviates from the text of the statute, it is unlikely that it violates the legislative intent, as the regulation merely updates the terminology used to describe the source of funding from which inmate welfare funds are derived. Thus, the cited authority is correct and complete. The regulations comply with legislative intent.

## **Special Note**

These regulations are being repropounded due to the expiration of the one year period after publication of the original, substantially identical proposal. The withdrawn regulations were not adopted within the time allotted due to organizational and leadership changes within the department.

## **Fiscal Analysis**

There is no fiscal impact on State or local agencies.

### **Agency Estimate of Projected Fiscal Impact**

The department advises that the regulations have minimal or no impact on State or local governments. The Department of Legislative Services concurs.

### **Impact on Budget**

There is no impact on the State operating or capital budget.

### **Agency Estimate of Projected Small Business Impact**

The department advises that the regulations have minimal or no economic impact on small businesses in the State. The Department of Legislative Services concurs.

## **Contact Information**

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