

**Maryland General Assembly
Department of Legislative Services**

**Proposed Regulation
Department of Public Safety and Correctional Services
(DLS Control No. 16-150)**

Overview and Legal and Fiscal Impact

This regulation modifies the criteria for prior substance abuse by applicants for mandated correctional officer certification.

The regulation presents no legal issues of concern.

There is no fiscal impact on State or local agencies.

Regulation of COMAR Affected

Department of Public Safety and Correctional Services:

Correctional Training Commission: General Regulations: COMAR 12.10.01.22

Legal Analysis

Summary of Regulation

The regulation modifies the criteria for prior substance abuse by applicants for mandated correctional officer certification by simply prohibiting the Correctional Training Commission from approving an appointment or certifying an individual in a mandated position if there is an indication that the individual illegally abused or used a controlled dangerous substance for no legitimate medical reason within the three years immediately before the date of application. The regulation repeals maximum prior use limits for various types of controlled dangerous substances (*e.g.*, four lifetime ingestions of amphetamines) and specifically includes performance enhancing drugs as a prohibited controlled dangerous substance.

Legal Issues

The regulation presents no legal issues of concern.

Statutory Authority and Legislative Intent

The Department of Public Safety and Correctional Services cites § 2-109 of the Correctional Services Article and § 3-207 of the Public Safety Article as statutory authority for the regulation. More specifically, § 2-109(c)(1) of the Correctional Services Article requires the Secretary of Public Safety and Correctional Services to adopt regulations to govern the policies

and management of correctional facilities in the department. The remaining cited authority is not relevant to these regulations.

Although not cited by the department, § 8-208 of the Correctional Services Article sets forth the powers and duties of the commission. More specifically, § 8-208(a)(9) authorizes the commission, subject to the authority of the Secretary, to adopt regulations necessary to carry out the statutory subtitle relating to the commission, including regulations that establish and enforce standards for prior substance abuse by individuals applying for certification as a correctional officer.

With the addition of § 8-208(a)(9) of the Correctional Services Article, the relevant cited authority is correct and complete. The regulation complies with the legislative intent of the law.

Technical Correction

In response to a suggestion from the Department of Legislative Services, staff for the department agree to substitute § 8-208 (a)(9) of the Correctional Services Article for § 3-207 of the Public Safety Article as statutory authority for the regulation.

Fiscal Analysis

There is no fiscal impact on State or local agencies.

Agency Estimate of Projected Fiscal Impact

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

Contact Information

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