

**Maryland General Assembly
Department of Legislative Services**

**Proposed Regulations
Department of Public Safety and Correctional Services
(DLS Control No. 16-177)**

Overview and Legal and Fiscal Impact

The regulations update and expand policies and procedures that a managing official must maintain at adult community correctional facilities, adult correctional institutes, and adult detention centers. The policies and procedures address security and inmate control, inmate safety, inmate rights, and administrative record keeping.

The regulations present no legal issues of concern.

There is no fiscal impact on State or local agencies.

Regulations of COMAR Affected

Department of Public Safety and Correctional Services:

Commission on Correctional Standards: Minimum Standards for Adult Detention Centers:
COMAR 12.14.03.02, .03, .06, and .09

Minimum Standards for Adult Correctional Institutions:
COMAR 12.14.04.01, .02, .05, and .08

Minimum Standards for Adult Community Correctional Facilities:
COMAR 12.14.05.01, .02, .05, and .08

Legal Analysis

Background

“Adult community correctional facility” means a community based program operated by a local government, State government, or private corporation under contract with a jurisdiction providing a group residence and special treatment services for sentenced and unsentenced inmates.

“Adult correctional institute” means Patuxent Institute or a facility operated by the Division of Corrections for confinement of sentenced inmates.

“Adult detention center” means a facility operated by the State or local government for detention of an inmate pending adjudication and for the confinement of sentenced inmates, except for Patuxent Institute or a facility operated by the Division of Corrections.

Summary of Regulations

The regulations update and expand policies and procedures that a managing official must maintain at adult detention centers, adult correctional institutes, and adult community correctional facilities. The policies and procedures address security and inmate control, inmate safety, inmate rights, and administrative record keeping. The regulations address the requirements in each facility type uniformly.

COMAR 12.14.03.02, 12.14.04.01, and 12.14.05.01 address a managing official's policy and procedure on security and inmate control. The policy must govern the availability, control, accountability, and storage of a list of items. The regulations add "organic agents" to that list. The regulations also require that a monthly inspection and inventory of the listed items include "operational status". The written policy specifically governing searches must also include a semi-annual search of "program areas".

COMAR 12.14.03.03, 12.14.04.02, and 12.14.05.02 address a managing official's policy and procedure on inmate safety. The regulations require that a managing official adopt a written evacuation plan that conforms with federal, State, and local fire codes and conduct an annual review of a building interior diagram or floor plan, marked exits, directional symbols, and locations of posted evacuation diagrams.

COMAR 12.14.03.06, 12.14.04.05, and 12.14.05.05 address a managing official's policy on inmate's rights. The regulations require that a managing official include a zero tolerance policy for sexual abuse and sexual harassment in the facility's written policy regarding inmate protection from abuse and harassment by personnel. In addition, the regulations require the written policy to provide for a facility response, access to medical health care, and access to mental health counseling and support.

COMAR 12.14.03.09, 12.14.04.08, and 12.14.05.08 address a managing official's policy on administrative record keeping. The regulations require that a managing official have a written policy and procedures for ensuring compliance with Correctional Training Commission employee background checks and training requirements.

Legal Issues

The regulations present no legal issues of concern.

Statutory Authority and Legislative Intent

The Department of Public Safety and Correctional Services cites Title 8, Subtitle 1 of the Correctional Services Article as statutory authority for the regulations. Specifically, § 8-103 authorizes the Secretary of Public Safety and Correctional Services to adopt regulations that establish minimum mandatory standards applicable to security and inmate control, inmate safety, inmate rights, and administrative record keeping. The statute also authorizes the Secretary to adopt regulations that establish approved standards applicable to personnel, training, administration, management, and other related functions. Section 8-112 authorizes the Commission on

Correctional Standards within the department to advise the Secretary on the establishment of minimum mandatory standards and approved standards. The statute also authorizes the commission to adopt regulations regarding standards for correctional facilities. The remaining cited authority is not relevant to these regulations.

The relevant cited authority is correct and complete. The regulations comply with the legislative intent of the law.

Technical Corrections and Special Notes

In response to suggestions made by the Department of Legislative Services, the department agrees to make technical corrections to COMAR 12.14.05.08, 12.14.05.02, 12.14.05.05, and 12.14.05.08.

Fiscal Analysis

There is no fiscal impact on State or local agencies.

Agency Estimate of Projected Fiscal Impact

The department advises that the regulations are administrative in nature and have 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.

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