

Department of Legislative Services
Maryland General Assembly
2000 Session

FISCAL NOTE

Senate Bill 44 (Chairman, Judicial Proceedings Committee)
(Departmental - Public Safety and Correctional Services)

Judicial Proceedings

State Correctional Facilities - Abandoned Property - Contraband

This departmental bill expands the current law authority of the Division of Correction (DOC) applicable to the confiscation of currency, contraband, or abandoned property from inmates, and includes facilities operated by the Patuxent Institution and the Division of Pretrial Detention and Services. These units of the Department of Public Safety and Correctional Services are required to adopt regulations governing such confiscations and forfeitures. The bill prohibits forfeiture unless the inmate has been provided notice of the confiscation and of the right to a hearing. The bill specifically provides that property confiscated as contraband may be subject to forfeiture. The bill clarifies existing authority of all State correctional facilities to confiscate (and initiate forfeiture of) contraband, as well as to sell, convert, or otherwise dispose of abandoned property.

Fiscal Summary

State Effect: Potential minimal effect on general fund revenues. Any costs associated with implementing the provisions of this bill could be handled with the existing budgeted resources of the DOC, the Patuxent Institution, and the Division of Pretrial Detention and Services.

Local Effect: None.

Small Business Effect: The Department of Public Safety and Correctional Services has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment.

Analysis

Current Law: An inmate in a DOC facility whose property is confiscated as contraband has the right to have the property removed from the correctional facility or sent to a person outside the correctional facility at the inmate's expense.

In addition, the DOC is required to hold for 30 days inmate property that comes into the DOC's possession as the result of an escape or because it is unclaimed by an inmate who has the right to possession. During the 30-day holding period, the DOC is required to post notice in a conspicuous location in the correctional facility in which the property was found. The DOC is required to return property to an inmate if: (1) the property is claimed within the 30-day holding period; (2) the inmate satisfactorily establishes a right to possession of the property; and (3) the inmate gives a proper receipt for the property. Property that is unclaimed within the 30-day holding period is deemed to be abandoned property and may be sold, converted to the use of the DOC, or otherwise disposed of in accordance with procedures established by the Commissioner of Correction.

Background: Prior to 1958, inmates forfeited property confiscated by prison authorities. Forfeited money was deposited into the Inmate Welfare Fund (IWF). In 1958, after judicial orders to suspend the rule under which confiscated inmate money was forfeited, a new rule required that money found on an inmate must be credited to the inmate's institutional account (with the allowance that the inmate could spend it).

In 1968, the rules were revised so that if an inmate denied ownership, confiscated money was once again deposited into the IWF. In 1970, the Maryland Attorney General issued an opinion that the DOC had no legal authority to effect forfeiture or to deposit confiscated money in the IWF. The Attorney General went on to say, in part, that there was no statutory right to effect forfeiture of other inmate property. He did affirm DOC's authority to confiscate and dispose only of property that is contraband, per se.

State Fiscal Effect: Any confiscated and forfeited cash resulting from the provisions of this bill would go to the general fund. It is assumed that the annual total of any such deposits would be minimal. Other confiscated property including weapons, alcohol, controlled dangerous substances, or other contraband would be, as appropriate, donated to charity, converted to institutional use(s), or disposed of as junk or trash.

Additional Information

Prior Introductions: HB 122 in the 1999 session and SB 65 in the 1998 session were similar departmental bills. Both bills received an unfavorable report from the Judiciary Committee.

Cross File: None.

Information Source(s): Department of Public Safety and Correctional Services, Department of Legislative Services

Fiscal Note History: First Reader - January 27, 2000

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