

Department of Legislative Services
Maryland General Assembly
2004 Session

FISCAL AND POLICY NOTE
Revised

House Bill 971

(Delegate Cadden, *et al.*)

Judiciary

Judicial Proceedings

Maryland Commission on Correctional Standards - Sanctions

This bill alters the authority of the Maryland Commission on Correctional Standards, including the authority to order the closure or cessation of operations of a correctional facility.

Fiscal Summary

State Effect: The bill's requirements could be handled with the existing budgeted resources of the commission. Assuming that all Division of Correction facilities are and remain in compliance with minimum mandatory standards, the bill should not have a significant operational or fiscal impact on those facilities.

Local Effect: Assuming that all local correctional facilities are and remain in compliance with minimum mandatory standards, the bill should not have a significant operational or fiscal impact on those facilities. Any potential expenditures arising from future fines for noncompliance cannot be reliably predicted.

Small Business Effect: None.

Analysis

Bill Summary: This bill provides that if the commission determines that a correctional facility is in violation of minimum, mandatory standards for State and local correctional facilities, the commission must send a compliance plan containing specified information to the facility with a copy to the appropriate executive and legislative body. If, after sending a compliance plan and reinspecting a facility, the commission determines that the

facility is still in violation of the minimum, mandatory standards, the commission must send a letter of reprimand containing specified information to the correctional facility, with a copy to the appropriate executive and legislative body. If, after the commission has sent a letter of reprimand and reinspected the facility, the facility continues to be in violation of the minimum, mandatory standards, the commission must conduct a full standards and performance audit of the facility addressing specified items. If the commission lacks the expertise necessary to perform a part of the full standards and performance audit, the commission may obtain assistance from sources with expertise in the specific standard. If the commission needs to obtain assistance, the correctional facility that is being audited must reimburse the commission for any cost incurred.

After completing an audit, the commission must send a letter to the correctional facility, with a copy to the appropriate executive and legislative body, containing a copy of the audit findings, a date specified for compliance with the audit findings, and other specified information. Within a reasonable time after the date specified for compliance, the commission must conduct an unannounced inspection to verify that the correctional facility has complied with the audit findings.

If, after performing an audit and unannounced inspection and holding a hearing on the issue, the commission determines that a correctional facility has not complied with the audit findings, the commission must: (1) petition a circuit court for a court order requiring the correctional facility to comply with the audit findings; or (2) issue an order to cease operation of the correctional facility or any of its components. The commission must provide to a correctional facility reasonable notice of a hearing and may subpoena witnesses.

Current Law: The 11-member Commission on Correctional Standards includes the Attorney General, the Secretary of General Services, and the Secretary of Budget and Management. With the advice of the commission, the Secretary of Public Safety and Correctional Services has set, by regulation, minimum mandatory standards applicable to security and inmate control, inmate safety, inmate food services, inmate housing and sanitation, inmate rights, classification, hearings, and administrative record keeping. Such standards apply to all State and local correctional facilities.

In addition, the Secretary of Public Safety and Correctional Services, with the advice of the commission, has adopted regulations that establish approved standards applicable to personnel, training, administration, management, planning and coordination, research and evaluation, physical plant, special management inmates, rules and discipline, mail and visiting, reception and orientation, property control, work programs, educational and vocational training, library services, religious services, recreational activities, counseling, release preparation, and volunteers. These standards apply to all State facilities and may be adopted, in whole or in part, by a local correctional facility.

All mandatory minimum standards and approved standards adopted must be consistent with State and federal law.

The commission is required to: (1) establish and implement a process to inspect State and local correctional facilities to determine and certify compliance with applicable standards; and (2) determine deadlines for remedial action and reinspection whenever inspection reports indicate noncompliance with applicable standards. The commission may review and act on appeals from staff inspection reports.

If, after holding a hearing on the issue, the commission determines that a correctional facility is in violation of the minimum mandatory standards, the commission may issue an order to cease operation of the correctional facility or any of its correctional elements, procedures, or functions. The commission may subpoena witnesses and hold public hearings before making a final decision on the closure of a correctional facility or any of its correctional elements, procedures, or functions. The commission must provide to a correctional facility reasonable notice of a hearing under these provisions.

Background: This bill arises out of related concerns expressed by the Public Justice Center, a nonprofit organization located in Baltimore City.

The Office of the Attorney General (OAG) has determined that certain sanctions for correctional institutions are not within the scope of the commission's current authority. The only sanction the commission currently has is to order a correctional facility that is in violation of the minimum, mandatory standards to cease operations. This is a sanction of last resort and has never been used by the commission. OAG has determined that current statutory authority prohibits the commission from imposing other sanctions. This bill creates a range of sanctions that the commission may impose on correctional facilities.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Montgomery County, Garrett County, Dorchester County, Anne Arundel County, Department of Public Safety and Correctional Services, Department of Legislative Services

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