

Department of Legislative Services
Maryland General Assembly
2004 Session

FISCAL AND POLICY NOTE

House Bill 1402

(Delegate Nathan-Pulliam, *et al.*)

Judiciary

Public Safety - Correctional Services - Juvenile Inmates

This bill requires the Division of Correction (DOC) to operate a separate unit to house only inmates who are under 18 years of age. The bill provides that the Commissioner of Correction has the same powers and duties relating to a unit for juvenile inmates as for any other DOC correctional facility.

The commissioner is required to provide educational services for juvenile inmates and to classify and assign each juvenile inmate to the available treatment, training, or employment that DOC considers appropriate.

Fiscal Summary

State Effect: Potential significant operational or capital costs for DOC. Revenues would not be affected.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: Subject to the authority vested in the Secretary of Public Safety and Correctional Services, the commissioner is in charge of DOC and its units. The commissioner is responsible to the Secretary and the Governor for the operation and conduct of DOC.

Promptly after an inmate is sentenced to the jurisdiction of DOC, the division must conduct a physical, mental, and educational examination of an inmate as soon as feasible. Based on the assembled information, DOC must classify an inmate and assign the inmate to any available treatment, training, or employment that the division considers appropriate. The managing official of each correctional facility must maintain, as a part of an inmate's case record: (1) an adequate record of the conduct, effort, and progress of the inmate during confinement; and (2) a record of the character of any offense committed by the inmate and the nature and amount of punishment inflicted.

On the recommendation of a health care provider, the managing official of a DOC facility and the warden of the Baltimore City Detention Center may authorize medical treatment of a juvenile inmate if: (1) in the judgment of the managing official, the treatment is necessary; and (2) a parent, guardian, or person *in loco parentis* of the juvenile is not available on a timely basis to give the authorization. A managing official or the warden may not be held liable for authorizing medically necessary treatment in good faith.

Under provisions applicable to State Use Industries, the commissioner and general manager must develop programs to provide inmates with occupational experience to complement personnel development plans of the Maryland State Department of Education (MSDE) and other units of State government serving inmates in the division. In establishing such programs, the commissioner and general manager are required to consult with: (1) the Assistant Secretary for the Division of Employment and Training, Department of Labor, Licensing, and Regulation (DLLR); (2) the Assistant State Superintendent for the Division of Career Technology and Adult Learning, MSDE; (3) the Commissioner of the Division of Labor and Industry, DLLR; and (4) the Director of the Correctional Education Program, MSDE.

Background: There are currently 60 DOC inmates under the age of 18. MSDE provides educational programs and library services to inmates in the State's adult prison system – including inmates under age 18 who are committed to DOC. Educational and library services are offered in the nine major DOC institutions, within various sites of the correctional prerelease system (including the Occupation Skills Training Center in downtown Baltimore) and in the Patuxent Institution. Instruction is offered on-site by certified teachers employed by MSDE under the immediate supervision of an on-site correctional principal. Library programs are offered in designated areas under the supervision of a certified library professional.

The majority of young inmates have multiple learning problems requiring special education intervention. Special Education Individualized Education Program related services are currently being provided throughout the State to the 60 inmates under the age of 18.

Patuxent Institution's Youth Program was established in October 1994 in response to the increasing number of violent juvenile offenders who have been waived to adult criminal courts. Eligibility criteria for the Patuxent Institution's Youth Program are similar to the Eligible Person Program. The offender must:

- have an intellectual impairment or emotional imbalance;
- be likely to respond favorably to the programs and services provided at Patuxent Institution; and
- be better able to respond to remediation through Patuxent Institution's programs and services than by other incarceration.

The offender must be referred to the institution by the court at the time of sentencing. Only youthful offenders who are younger than 21 years old at the time of the referral, and who have a sentence of three years or more, can be referred for evaluation. This program has no offenders under age 18.

The primary focus of the Youth Program is developmental, with the goal of assisting the youthful offenders in their transition to viable adult development. The program requires increased direct contact and monitoring of the youthful offenders. Once a youthful offender is accepted into the program, the youth remains in the program until either he or she: (1) is paroled by the Board of Review with the approval of the Secretary; (2) has completed the term of imprisonment; or (3) is transferred by the director of the institution to DOC. The program is not voluntary.

State Expenditures: There are approximately 80-140 juveniles under age 18 committed to DOC annually. Most are 17 years of age and turn 18 shortly after intake.

DOC currently operates a separate housing unit for youthful offenders at the Maryland Correctional Training Center (MCTC), a medium security facility in Hagerstown. The inmates in this separate 70-bed tier are male only. Some are older than 18. After 90 days in this unit, and regardless of age, all inmates in this tier are given the option to stay at MCTC or to be placed within the general adult prison population. At age 21, these inmates are generally placed within the adult population. These younger inmates do interact with the general adult population at MCTC during meals and certain other activities and are given priority for educational programs.

Under the requirements of this bill, DOC could continue use the separate MCTC unit as a housing unit for youthful offenders, but would have to limit its population to inmates under the age of 18, and only until they reach age 18. Of the 60 current DOC inmates under age 18, 48 are 17, and 12 are under age 17. At MCTC, about 30 of the current

inmates in the separate youth unit are under 18. Noting that DOC, overall, operates at about 160% of capacity, the operational difficulties under this arrangement would involve where to place the other inmates in the unit who are already over 18, and how to schedule housing and programs for those inmates who, under this bill, could no longer be housed at the unit upon their eighteenth birthday.

If such difficulties proved insurmountable, DOC could build a new prison unit for inmates under age 18. Such a unit could also maintain separation for these inmates from the general population at all times, including for meals, medical services, and educational programs. Constructing such a unit in proximity to existing State facilities is estimated to cost about \$25 million.

While MSDE believes that this bill would require five new special education teachers and one additional school psychologist at an annual cost of about \$120,000, annually, the Department of Legislative Services does not concur. Since MSDE already provides educational programs and training for these same inmates, the requirements of this bill for MSDE could be handled with existing budgeted resources.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland State Department of Education, Department of Public Safety and Correctional Services (Division of Correction), Department of Legislative Services

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