

Department of Legislative Services  
Maryland General Assembly  
2006 Session

FISCAL AND POLICY NOTE  
Revised

House Bill 475 (Chairman, Judiciary Committee)  
(By Request – Departmental – Public Safety and Correctional Services)

Judiciary

Judicial Proceedings

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Correctional Services - Correctional Units - Mutual Aid Agreements

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This departmental bill authorizes written mutual aid agreements among local and State correctional units in Maryland to supply temporary services to alleviate emergency situations at correctional facilities. The term “correctional unit” includes the Department of Public Safety and Correctional Services (DPSCS), the Department of Juvenile Services (DJS), and a unit of local government operating a correctional facility or a county detention center. The bill establishes the rights, liabilities, and duties of the parties to a mutual aid agreement.

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Fiscal Summary

**State Effect:** Minimal. Depending on the nature and circumstances of the emergency situation, any activated mutual aid agreement would tend to affect operational efficiencies and overtime costs of the participating State correctional entities. It is assumed that such agreements would only be entered when there are sufficient budgeted resources to meet anticipated responsibilities.

**Local Effect:** Minimal. Depending on the nature and circumstances of the emergency situation, any activated mutual aid agreement would tend to affect operational efficiencies and overtime costs of the participating local correctional entities. It is assumed that such agreements would only be entered when there are sufficient budgeted resources to meet anticipated responsibilities.

**Small Business Effect:** DPSCS has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment. (The attached assessment does not reflect amendments to the bill.)

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## Analysis

**Bill Summary:** At the request of the Secretary of Public Safety and Correctional Services, the Secretary of Juvenile Services, or the head of any correctional unit, a staff person of a correctional unit who has been trained and certified by the Correctional Training Commission in the care, custody, and control of individuals may function at the location in need under a mutual aid agreement.

For the purpose of a workers' compensation law or benefit or other law or benefit that would apply or accrue to an individual who is performing a service anywhere for a correctional unit under a mutual aid agreement, the individual is considered to have performed that service in the course of employment and in the line of duty.

Necessary expenditures for the purposes of these provisions must be made out of any State or local appropriations usually available to a correctional unit.

**Current Law:** Under provisions of the Public Safety Article applicable only to mutual aid agreements by fire, rescue, or emergency medical services entities, the term "mutual aid agreement" means an agreement to establish and carry out a plan to assist in extinguishing fires and preserving life and property by providing fire fighting, rescue, or emergency medical equipment, personnel, and services. Under these same provisions, for purposes of a workers' compensation or other law or benefit that would accrue to an individual, career or volunteer, who is performing a service anywhere for a fire, rescue, or emergency medical services entity under a mutual aid agreement, the individual is considered to have performed that service in the course of employment and in the line of duty.

The governing body of a county or municipal corporation in the State may obtain or extend the necessary public liability insurance to cover claims that arise out of mutual aid agreements made with another county or municipal corporation outside the State.

Under the Maryland Emergency Management Agency (MEMA) Act, with the approval of the Adjutant General and in collaboration with other public and private agencies in the State, the director of MEMA must develop or cause to be developed mutual aid agreements for reciprocal emergency aid and assistance in case of emergency of an extreme nature that affects two or more political subdivisions.

Chapter 607 of 2005 provides that any provision or part of a State, local, or municipal corporation statute, law, or ordinance that requires a mutual aid agreement to contain additional terms or conditions is inapplicable to an agreement authorized by and entered into under provisions governing National Capital Region mutual aid agreements.

Persons serving a sentence longer than 18 months are incarcerated in Division of Correction (DOC) facilities. Persons serving a sentence of one year or less in a jurisdiction other than Baltimore City are sentenced to local detention facilities. For persons sentenced to a term of between 12 and 18 months, the sentencing judge has the discretion to order that the sentence be served at a local facility or DOC. The State reimburses counties for part of their incarceration costs, on a per diem basis, after a person has served 90 days.

**Background:** According to DPSCS, over the years, several situations have arisen that require the department and local correctional facilities to develop memoranda of understanding to alleviate emergency situations or issues. DPSCS has assisted DJS with such situations, especially those in Baltimore City. DPSCS believes that this bill would provide a more efficient avenue of assisting other State and local correctional units in emergency situations.

In 2002, SB 11 would have authorized the sheriff of a county or a governing body of a county or municipal corporation that operates a local correctional facility to enter into a memorandum of understanding with another sheriff or political subdivision that operates a correctional facility to authorize the transfer of inmates from one facility to another. That bill passed the General Assembly and was vetoed by the Governor.

**State Fiscal Effect:** In fiscal 2005, DJS entered into agreements with two local sheriffs' offices to provide supplemental security at the Baltimore City Juvenile Justice Center during a temporary staffing shortage. Based on this experience, the agency's future participation in mutual aid agreements would most likely have an effect on overtime costs, and could reduce overtime if staff from other institutions assisted at a DJS facility during an emergency, or increase it if DJS staff provided assistance at another institution. The extent of such potential effects cannot be reliably predicted.

DPSCS believes that the bill would provide operational efficiencies and would have no fiscal impact. However, as is noted with DJS above, any activated mutual aid agreement would tend to affect overtime costs of the participating State correctional entities.

**Local Fiscal Effect:** Any activated mutual aid agreement would tend to affect operational efficiencies and overtime costs of the participating local correctional entities.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Department of Juvenile Services, Allegany County, Montgomery County, Prince George's County, Baltimore City, Department of Public Safety and Correctional Services, Department of Legislative Services

**Fiscal Note History:** First Reader - February 13, 2006  
mam/jr Revised - House Third Reader - March 20, 2006

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