

Department of Legislative Services
Maryland General Assembly
2010 Session

FISCAL AND POLICY NOTE

House Bill 427

(Chair, Judiciary Committee)(By Request - Departmental
- Public Safety and Correctional Services)

Judiciary

**Courts and Judicial Proceedings - Prisoner Litigation Act - Definition of "Civil
Action"**

This departmental bill adds actions seeking judicial review of the denial of an application to inspect a public record to the list of civil actions for which an inmate must first exhaust all administrative remedies prior to seeking judicial intervention.

Fiscal Summary

State Effect: Potential minimal reduction in operational costs for the Department of Public Safety and Correctional Services (DPSCS) to the extent that the department can resolve cases covered by the bill through its existing administrative process rather than litigation. Any such reduction is not expected to materially affect State finances.

Local Effect: Potential minimal reduction in circuit court operational costs if cases affected by the bill are resolved during the DPSCS administrative process instead of being filed in circuit courts. Any such reduction is not expected to materially affect local finances.

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

Analysis

Current Law: Under the Prisoner Litigation Act (PLA), a prisoner may not maintain a civil action until the prisoner has fully exhausted all administrative remedies for resolving the prisoner's grievance. The Act defines "administrative remedy" as any procedure for review of a prisoner's complaint or grievance, including judicial review, if available, that is provided by DPSCS, the Division of Correction, or any county or other municipality or political subdivision, and results in a written determination or disposition. A "civil action" is defined as a legal action seeking money, damages, injunctive relief, declaratory relief, or any appeal filed in any court in the State that relates to or involves a prisoner's conditions of confinement. "Conditions of confinement" means any circumstance, situation, or event that involves a prisoner's custody, transportation, incarceration, or supervision.

The Maryland Public Information Act (MPIA) grants the public a broad right of access to records that are in the possession of State and local government agencies. The MPIA's basic mandate is to enable people to have access to government records without unnecessary cost or delay. Generally, a custodian of a public record must permit inspection of the record at any reasonable time. Custodians have a responsibility to provide such access unless the requested records fall within one of the exceptions in the statute. The MPIA authorizes judicial review of the denial of a request to inspect a public record. Judicial reviews of denials occur in the circuit court where the records are located or where the complainant resides or has a place of business. These cases are required to take precedence on the docket, unless the court has other cases it considers of greater importance.

Background: The bill is intended to reverse the Maryland Court of Appeals' ruling in *Massey v. Galley*, 392 Md. 634, 898 A.2d 951 (2006). In that case, the court held that the requirements of PLA did not apply to an inmate's request under MPIA for public records pertaining to prison management, including contracts for health and photocopying services at the Western Correctional Institution. The court opined that a request to inspect a public record does not involve or relate to a prisoner's conditions of confinement and that nothing in language of the PLA or its legislative history indicates that requests under MPIA are subject to the requirements of PLA. As a result, a prisoner need not exhaust all administrative remedies prior to seeking judicial review of a denial of a request to inspect a public record under MPIA.

DPSCS advises that it has received 33 lawsuits since 2007 that are not subject to PLA as a result of the *Massey* holding.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts), Department of Public Safety and Correctional Services, Public Justice Center, *The Daily Record*, Department of Legislative Services

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mpc/kdm

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Courts and Judicial Proceedings – Prisoner Litigation Act –
Definition of “Civil Action”

BILL NUMBER: HB 427

PREPARED BY: Department of Public Safety and Correctional Services

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL
BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL
BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

The proposed legislation will have no impact on small business in Maryland.