

Department of Legislative Services  
Maryland General Assembly  
2011 Session

FISCAL AND POLICY NOTE  
Revised

House Bill 752

(Delegate Barkley, *et al.*)

Health and Government Operations

Judicial Proceedings

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**Maryland Correctional Enterprises - Prohibiting Access to Personal Information**

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This bill prohibits programs conducted by Maryland Correctional Enterprises (MCE) from allowing an inmate to have access to the personal information of another, which is defined as an individual's Social Security number; or credit card or financial information.

The bill takes effect June 1, 2011.

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**Fiscal Summary**

**State Effect:** None. MCE can implement the bill's requirements with existing resources and without affecting existing data entry services contracts.

**Local Effect:** None.

**Small Business Effect:** Minimal.

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**Analysis**

**Current Law:** MCE is the prison industry component of the Division of Correction in the Department of Public Safety and Correctional Services. MCE is solely supported with special funds, maintaining a self-supporting status by providing an array of services and manufacturing a variety of products through the use of inmate labor. MCE's customer base includes the State, local governments, and nonprofit organizations. MCE also conducts training programs to provide construction and construction-related services for State correctional facilities.

**Background:** A performance audit report by the Office of Legislative Audits (OLA) on the Medical Care Programs Administration (MCPA) of the Department of Health and Mental Hygiene (DHMH) found that the agency used inmates for data entry of sensitive claims information, including Social Security numbers, and did not ensure that employees of a data entry contractor had criminal background checks as required by the contract. While the majority of claims are processed electronically, during the period from July 1, 2008, through May 30, 2009, approximately 900,000 paper claims totaling \$265 million were submitted.

MCPA contracted with MCE and another vendor to assist MCPA staff in entering data from paper claims. MCE used inmates to enter physician claims into the system. In this regard, claims data submitted to MCE contained Social Security numbers and other sensitive information such as recipient Medicaid numbers. DHMH did not determine the nature of the crimes committed by the inmates processing these claims to ensure they had not committed fraudulent activity, such as identity theft. Although there is no specific statute or regulation prohibiting the use of inmates for this activity, the use of individuals with criminal backgrounds heightens concerns about protecting sensitive data.

OLA recommended that DHMH reevaluate the practice of using inmates to process sensitive claims data. As of July 1, 2010, MCPA took steps to strengthen the memorandum of understanding (MOU) with MCE by specifically requiring that only inmates with criminal histories not involving embezzlement, extortion, fraud, theft, burglary, or any other crimes against persons involving money may perform duties under the MOU. In addition, MCPA incorporated a Health Insurance Portability and Accountability Act Business Associate Agreement, with associated indemnity provisions, into the revised MOU.

**State Fiscal Effect:** The fiscal 2012 State budget shows MCE's total special fund income at \$46.2 million, which includes income from the above cited data entry services contracts with MCPA and MVA. Neither of these contracts is performed by MCE with inmate access to the information prohibited under the bill.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Department of Health and Mental Hygiene, Department of Public Safety and Correctional Services, Department of Legislative Services

**Fiscal Note History:** First Reader - February 28, 2011  
ncs/hlb Revised - House Third Reader - March 25, 2011  
Revised - Enrolled Bill - May 3, 2011

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