

Department of Legislative Services  
Maryland General Assembly  
2014 Session

FISCAL AND POLICY NOTE

House Bill 962  
Judiciary

(Delegate Hough, *et al.*)

Finance

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State Correctional Facilities - Correctional Officers - Polygraph Examination

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This bill *requires*, rather than *authorizes*, that an applicant for a position as a State correctional officer be subject to a polygraph examination before being appointed to the position.

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Fiscal Summary

**State Effect:** None. The Governor's proposed FY 2015 budget contains a FY 2014 deficiency appropriation of \$347,000 in general funds to create a polygraph unit in the Department of Public Safety and Correctional Services (DPSCS), as recommended by a special joint commission and discussed below. Funding for the new unit continues in FY 2015. Accordingly, DPSCS could handle the bill's requirements with existing resources. Revenues are not affected.

**Local Effect:** None.

**Small Business Effect:** None.

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Analysis

**Current Law:** DPSCS is *authorized* to require correctional officer applicants to pass a polygraph prior to being hired. However, generally, an employer may not require or demand, as a condition of employment, prospective employment, or continued employment, that an individual submit to or take a lie detector or similar test. Specified exceptions from this prohibition include:

- State and local law enforcement officers;

- an individual who applies for employment as a correctional officer at a State or local correctional facility;
- an individual who applies for employment or is employed as a correctional officer at the Baltimore City Jail, the Baltimore County Detention Center, and local detention facilities in Baltimore, Cecil, Charles, Frederick, Harford, and St. Mary's counties;
- individuals who apply for employment or who are employed as correctional officers or other positions involved in direct personal contact with inmates in the Calvert or Washington county detention centers;
- an applicant for employment as a correctional officer with the Anne Arundel County Department of Detention Facilities, or the Caroline County Department of Corrections;
- a communications officer in the Calvert County Control Center; and
- an applicant for employment with the Washington County Emergency Communications Center.

**Background:** On April 23, 2013, a federal grand jury returned an indictment charging 25 individuals, including inmates and 13 correctional officers employed by DPSCS, with conspiring to run operations of the Black Guerilla Family (BGF) gang inside the Baltimore City Detention Center and related facilities. Charges included racketeering, drug distribution, money laundering, victim and witness retaliation, bribery, and extortion. According to the indictment, correctional officers helped leaders of the BGF smuggle cell phones, drugs, and other contraband into State correctional facilities.

In November 2013, an additional 19 individuals, including 14 former and current DPSCS correctional officers, were charged with conspiring to operate the BGF gang inside correctional facilities. With the November 2013 indictment, 44 individuals, including 27 correctional officers, have been charged in the case.

In response to the April 2013 indictments, the Legislative Policy Committee appointed a Special Joint Commission on Public Safety and Security in State and Local Correctional Facilities to look into matters relating to these events. The commission held six public meetings during the 2013 interim. The December 2013 final report of the commission recommended, among other things, that in order to improve the pool of correctional officer applicants and to avoid the hiring of correctional officer applicants with gang affiliations, as soon as practicable, the State begin to polygraph all new correctional officer applicants, consistent with its current authority. The commission further recommended that a deficiency appropriation be provided in the fiscal 2014 State budget to establish a polygraph examination unit within DPSCS in order to handle the expanded polygraph testing. In testimony to the special commission, DPSCS estimated that it

would cost \$347,019 in fiscal 2014 and \$338,982 annually thereafter to create and maintain a polygraph unit within the department.

Currently, when needed, the Department of State Police (DSP) administers polygraph examinations for DPSCS at no charge. DSP advises that work is already underway to assist DPSCS in establishing a DPSCS polygraph unit to handle all future polygraph testing requirements within DPSCS.

According to DPSCS, the initial polygraph upon employment is an effective initial screening tool. DPSCS currently has 11,076 authorized positions across all agencies within the department. Of that number, 10,495 are filled positions.

**State Expenditures:** As noted above, the commission recently recommended the establishment of a polygraph unit within DPSCS so that the department can expand its use of polygraph testing with respect to State correctional officer applicants. The Governor's proposed budget for fiscal 2015 contains a general fund deficiency appropriation for fiscal 2014 of \$1.5 million for a new polygraph unit and an expanded Internal Investigation Unit (IIU) within DPSCS. Of that amount, \$347,019 is specifically for the polygraph unit. It includes \$266,569 for the salaries and the fringe benefits of a unit supervisor and four polygraph examiners, \$53,500 for new equipment, and \$26,950 for other operating expenses. The proposed budget continues funding for the polygraph unit in fiscal 2015, which will organizationally operate as a unit of IIU.

Accordingly, the department can handle any additional polygraph testing that it is required to conduct as a result of the bill with existing resources.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

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

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