

Department of Legislative Services
 Maryland General Assembly
 2014 Session

FISCAL AND POLICY NOTE

House Bill 787
 Judiciary

(Delegate Summers, *et al.*)

Corrections - Isolated Confinement Study

This bill requires the Special Joint Commission on Public Safety and Security in State and Local Correctional Facilities (special joint commission) to appoint an independent third party to conduct a review of correctional facilities in the State regarding the facilities’ use of “isolated confinement.” A report of initial findings and recommendations, reviewing calendar 2016, is required to be made to the Governor and the special joint commission by June 1, 2017. Follow-up reports on calendar 2017 through 2019 are due on the succeeding June 1 each year.

The bill terminates September 30, 2021.

Fiscal Summary

State Effect: General fund expenditures increase by approximately \$250,000 in FY 2016 to engage a third party to conduct the required review. Follow-up reporting requirements are estimated to cost approximately \$50,000 per year in FY 2017 through 2020. Revenues are not affected.

(in dollars)	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	0	250,000	50,000	50,000	50,000
Net Effect	\$0	(\$250,000)	(\$50,000)	(\$50,000)	(\$50,000)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: The third party review must include (1) interviews of inmates and correctional staff, if necessary and (2) a review of the conditions for inmates in isolated confinement and the frequency of the facility's usage of isolated confinement. A correctional facility must provide access to all data necessary for the third party to conduct the review.

The third-party reviewer must develop recommendations on (1) ways to reduce the use of isolated confinement in correctional facilities; (2) improving conditions for inmates in isolated confinement; and (3) diverting juveniles and persons with "serious mental illness" from isolated confinement.

Current Law/Background: In June 2013, the Senate President and House Speaker convened the special joint commission; the charge to the special joint commission did not specify its duration. The special joint commission conducted a comprehensive study of laws, regulations, policies, and practices that affect safety and security in correctional institutions statewide. Prior to the 2014 legislative session, the special joint commission submitted its report to the Legislative Policy Committee and the General Assembly, making recommendations for budgetary and legislative changes to address issues facing the State's correctional system.

The Department of Public Safety and Correctional Services (DPSCS) is authorized to adopt regulations for the operation and maintenance of State correctional facilities, including regulations concerning the discipline and conduct of inmates, including the character of punishments for violations of discipline.

By regulation, the managing official of a correctional facility must maintain a written policy and procedure governing the placement, removal, supervision, and rights of an inmate assigned to "administrative segregation," "disciplinary detention," medical isolation, and protective custody status, which includes provisions for (1) identification of persons authorized to place and remove an inmate from special confinement; (2) designation of circumstances and conditions warranting assignment and release; (3) specification of timeframes, method, and persons authorized to review status; (4) access to services, programs, and activities consistent with the inmate's status; and (5) maintenance of supervision records of specified activities and occurrences.

"Administrative segregation" means a form of physical separation of an inmate from the general population determined by the classification process or authorized personnel when the continued presence of an inmate in the general population would pose a serious threat to (1) life; (2) property; (3) self; (4) staff or other inmates; (5) the security or orderly

functioning of the facility; or (6) the well-being of society. “Disciplinary detention” means a form of physical separation in which an inmate found guilty at a disciplinary hearing is confined apart from the general population for a designated period of time.

There are also DPSCS regulations concerning inmate discipline. An inmate who commits a rule violation is subject to the inmate disciplinary process of the department. Sanctions for inmate rule violations include (1) placement of an inmate on disciplinary segregation; (2) revocation of good conduct and special projects credit; (3) suspension of inmate privileges; or (4) restitution for lost, stolen, altered, damaged, or destroyed property of the State, a person, or an entity. Rule violations are categorized according to the severity of the offense. When staff believe a rule violation has occurred, an investigation is initiated within one calendar day of the alleged violation, and a shift supervisor determines whether the violation merits a hearing, informal disposition, or reduction to an incident report. Staff serves a notice of inmate rule violation and disciplinary hearing on the inmate, and a shift commander may isolate the inmate if the inmate poses a threat to security.

Following a hearing, and upon a determination of guilt, a hearing officer may permit the defendant inmate or, if represented, the defendant inmate’s representative and, if assigned, the facility representative, to argue for appropriate sanctions. The hearing officer also (1) determines and imposes appropriate sanctions in regards to disciplinary segregation time and loss of diminution credits according to an adjustment history sentencing matrix and (2) informs the hearing participants of the sanction imposed and the period and effective date of the sanction.

According to DPSCS, isolated confinement is not used in State correctional facilities. The State does, however, utilize administrative and disciplinary segregation, as discussed above, which is distinctive from the practice of isolated confinement. DPSCS also advises that it has already partnered with the Vera Institute of Justice to determine national best practices in confining individuals.

State Expenditures: The Department of Legislative Services estimates that the cost of engaging a third party to conduct the review of State correctional practices required under the bill likely costs approximately \$250,000 in fiscal 2016 and about \$50,000 each year thereafter through fiscal 2020.

Additional Information

Prior Introductions: None.

Cross File: SB 861 (Senator Gladden, *et al.*) - Judicial Proceedings.

Information Source(s): Department of Public Safety and Correctional Services, Judiciary (Administrative Office of the Courts), Department of Juvenile Services, Department of Health and Mental Hygiene, Baltimore County, Department of Legislative Services

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