

Department of Legislative Services
Maryland General Assembly
2015 Session

FISCAL AND POLICY NOTE

House Bill 115
Appropriations

(Carroll County Delegation)

Judicial Proceedings

Carroll County - Correctional Officers' Bill of Rights

This bill establishes rights of a correctional officer relating to the employment, investigation, and discipline of correctional officers in Carroll County. The bill's provisions are the same as the provisions of the Correctional Officers' Bill of Rights (COBR) applicable in Allegany, Cecil, Garrett, Harford, and St. Mary's counties.

Fiscal Summary

State Effect: None.

Local Effect: The bill's changes do not significantly affect Carroll County's operations or finances. Any future impacts arising from decisions of hearing boards cannot be reliably predicted.

Small Business Effect: None.

Analysis

Bill Summary: Similar to COBR for State correctional officers (Chapter 194 of 2010), this bill does not limit the authority of the managing official of Carroll County to regulate the competent and effective operation and management of the local correctional facility by reasonable means including the transfer and reassignment of employees if (1) that action is not punitive in nature and (2) the appointing authority determines that action to be in the best interests of the internal management of the correctional facility.

Under both COBR and this bill, a correctional officer may not be required or requested to disclose an item of the correctional officer's property, income, assets, source of income,

debts, or personal or domestic expenditures, including those of a member of the correctional officer's family or household, unless the disclosure is required by federal or State law or the information is necessary to investigate a possible conflict of interest with respect to the performance of the correctional officer's duties. Although under both COBR and this bill a correctional officer may waive in writing any rights granted under the statute, the right of a correctional officer to bring suit arising out of the officer's duties may not be abridged.

However, unlike the State provisions, this bill does not enumerate or define "misconduct." This bill specifies procedures for complaints of brutality and COBR does not, *per se*. However, COBR does specify that an appointing authority may not recommend disciplinary action against a correctional officer for excessive use of force against an inmate based solely on the uncorroborated statement of the inmate unless the appointing authority determines that there exists any indicia of reliability to support the inmate's allegation. Under COBR, at least 24 hours before an interrogation, the correctional officer under investigation must be informed of the name, rank, and command of (1) the person in charge of the investigation; (2) the interrogating officer; and (3) each individual who will be present during the interrogation. Under this bill, there is no specified timeframe for that notification.

Under COBR and this bill, a correctional officer is entitled to counsel and results of a polygraph examination may not be used as evidence in an administrative hearing without agreement from both parties. Timeframes for notification of all charges and witnesses against a correctional officer differ. Under COBR, it must be made at least 20 days prior to a hearing. Under this bill, notification must be made at least 10 days prior to a hearing.

Though the details differ, procedures for the issuance of subpoenas exist under both COBR and this bill. Any decision, order, or action taken by a hearing board must be in writing and accompanied by findings of fact. The decision of the hearing board is final if the managing official is an eyewitness to the underlying incident or if the managing official has agreed with a recognized and certified bargaining representative of the county correctional officers.

A finding of not guilty terminates the action. For a finding of guilty, the procedures for determination of penalty differ. However, an appeal from a decision may be taken to the circuit court for the appropriate county under Maryland Rule 7-202. A decision by the circuit court may be appealed to the Court of Special Appeals. Provisions for emergency suspensions, with or without pay, are included under the bill and COBR.

Current Law: Chapter 689 of 2008 provided for rights of a correctional officer relating to the employment, investigation, and discipline of correctional officers in Cecil County. Chapter 128 of 2011, Chapter 190 of 2012, and Chapter 93 of 2013 included correctional

officers in St. Mary's, Garrett, and Allegany counties, respectively, under these same provisions. Chapters 30 and 31 of 2013 included correctional officers in Harford County under the same provisions. A separate Correctional Officers' Bill of Rights in Charles County was enacted by Chapter 441 of 2012.

Background: The Carroll County Detention Center is operated by the Carroll County Sheriff's Office. This bill affords the county's correctional officers the same rights and protections already provided to sheriff's deputies in the county.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Carroll County, Department of Legislative Services

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