

Department of Legislative Services
Maryland General Assembly
2016 Session

FISCAL AND POLICY NOTE
Third Reader

House Bill 359
Judiciary

(Delegates Dumais and B. Wilson)

Judicial Proceedings

Criminal Procedure - Charges Against Correctional Officer - Review by State's Attorney

This bill expands the definition of “law enforcement officer” to include a “correctional officer,” as specified. Accordingly, the bill applies the requirements for (1) an application for a statement of charges to be forwarded to a State’s Attorney; (2) the State’s Attorney to investigate the circumstances; and (3) the State’s Attorney to make a recommendation to the District Court Commissioner, to an application pertaining to a correctional officer.

Fiscal Summary

State Effect: The bill’s changes are procedural in nature and are not expected to impact the operations or finances of the Judiciary or the Department of Public Safety and Correctional Services.

Local Effect: The bill’s changes are procedural in nature and are not expected to materially impact the operations or finances of local State’s Attorneys, the circuit courts, or local correctional agencies.

Small Business Effect: None.

Analysis

Current Law: “Correctional officer” means a member of a correctional unit whose duties relate to the investigation, care, custody, control, or supervision of inmates and individuals who (1) have been placed on parole or mandatory supervision; (2) have been placed on probation; or (3) have received a suspended sentence. “Correctional officer” does not include the head or deputy head of a correctional unit or a sheriff, warden, or superintendent

or an individual with an equivalent title who is appointed or employed by a unit of government to exercise equivalent supervisory authority.

A statement of charges for an offense allegedly committed in the course of executing the duties of a law enforcement officer, emergency services personnel, or an educator may not be filed against such a worker until the State's Attorney has investigated the circumstances of the matter and made recommendations to the District Court Commissioner.

An application filed in the District Court that requests that a statement of charges be filed against a law enforcement officer, emergency services personnel, or an educator for an offense allegedly committed in the course of executing the duties of these workers must immediately be forwarded to the State's Attorney. When the State's Attorney receives an application filed in District Court requesting that a statement of charges be filed, the State's Attorney must (1) investigate the circumstances of the matter and (2) make a recommendation to the District Court Commissioner on whether a statement of charges should be filed against the law enforcement officer, emergency services personnel, or the educator. If the State's Attorney recommends to a District Court Commissioner that a statement of charges be filed, the State's Attorney must also make a recommendation regarding whether a summons or warrant should be issued.

The State's Attorney is not precluded from making a determination that an information should be filed against a law enforcement officer, emergency services personnel, or an educator or that a grand jury should be convened to determine whether an indictment should be filed.

Local Fiscal Effect: The bill is not anticipated to materially affect local government operations or finances. For example, Montgomery County advises that between three and four complaints are lodged against correctional officers in the county each year; although the county advises that the bill likely adds approximately 20 to 40 hours annually to the workload of the county's State's Attorney's office, any such increase in workload can be managed with existing resources. Garrett County advises that the bill codifies existing practice. Baltimore and Dorchester counties report that the bill can be implemented with existing resources.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Baltimore, Dorchester, Garrett, and Montgomery counties; Judiciary (Administrative Office of the Courts); State's Attorneys' Association; Department of Public Safety and Correctional Services; Department of Legislative Services

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