

Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 11

(Chair, Judicial Proceedings Committee)(By Request -
Departmental - Public Safety and Correctional Services)

Judicial Proceedings

**Correctional Services - Correctional Officers' Bill of Rights - Composition of
Hearing Board**

This departmental bill alters provisions relating to the selection and composition of a hearing board under the State Correctional Officers' Bill of Rights (COBR).

Fiscal Summary

State Effect: The bill's changes can be accommodated by the existing budgeted resources of the Department of Public Safety and Correctional Services (DPSCS).

Local Effect: None.

Small Business Effect: DPSCS has determined that this bill has minimal or no impact on small business (attached). The Department of Legislative Services concurs with this assessment.

Analysis

Bill Summary: The bill requires that, under COBR, a hearing board must include one member whose rank is the same as that of the correctional officer against whom the charges have been filed. In addition, correctional officers assigned to serve on a hearing board must be selected from a list of eligible correctional officers established by the Secretary of Public Safety and Correctional Services.

The bill repeals specified current law provisions governing the composition of hearing boards under COBR that (1) distinguish between hearings for correctional officers holding

the rank of sergeant or below and for correctional officers holding the rank of lieutenant or above; (2) require that correctional officers assigned to serve on a hearing board be randomly selected from a rotating list of eligible correctional officers maintained by DPSCS; (3) require DPSCS, after consultation with the specified exclusive representative for correctional officers, to determine the manner of selection of correctional officers who are eligible to serve on a rotating list and the manner of the selection of correctional officers for a hearing board; and (4) require participation by the hearing board chair in deliberations, authorize the chair to vote on a specified decision, and authorize the chair to file a statement of position for the record.

Current Law: Chapter 194 of 2010 enacted COBR, which provides for the employment, investigation, and discipline of State correctional officers working in a State correctional facility. COBR extends uniform investigatory and disciplinary protections to officers whose duties relate to the investigation, care, custody, control, or supervision of inmates.

Under COBR, an authorized hearing board must consist of at least three members. For correctional officers holding the rank of sergeant or below, the hearing board must be composed of two correctional officers who are members of the bargaining unit, one of whom is the same rank as the correctional officer facing charges, and one correctional officer ranked lieutenant or higher. For correctional officers holding the rank of lieutenant and above, the hearing board must be composed of one correctional officer of equal rank, one correctional officer of equal or lower rank, and one correctional officer of equal or higher rank.

Correctional officers assigned to serve on a hearing board must be randomly selected from a rotating list of correctional officers eligible to serve on disciplinary hearing boards maintained by DPSCS. The department, after consultation with the exclusive representative for the correctional officers who are covered by COBR, must determine (1) the manner of selection of correctional officers who are eligible to serve on a rotating list and (2) the manner of the selection of correctional officers for a hearing board.

Correctional officers assigned to serve on a hearing board (1) must be from a facility other than the facility to which the correctional officer facing charges is regularly assigned and (2) may not have had a role in the investigation or the interrogation of the correctional officer against whom the charges are filed, or be involved in any way with the incidents that are the subject of the complaint.

The highest ranking member of the hearing board must serve as the hearing board chair. The chair of the hearing board must participate in any deliberations and may file a statement of position for the record; however, the chair may only vote on the decision in the event of a tie. The chair of the hearing board must be from a different facility than the other board members.

A majority vote of all members of the board determines the decisions of the hearing board. The votes of the hearing board are confidential with decisions reported by the chair.

The appointing authority and the exclusive bargaining representative may negotiate an alternative method of forming the hearing board for members of the collective bargaining unit.

Background: Recent indictments involving prison corruption have brought attention to the importance of having a robust, fair, and effective disciplinary process within the correctional system. In October 2016, more than 50 correctional officers and inmates were charged in a widespread bribery and drug conspiracy inside the Eastern Correctional Institution. Prison guards are accused of smuggling cellphones, tobacco, and drugs into the facility in exchange for money and sex. In 2013, more than two dozen State correctional officers at the Baltimore City Detention Center and the Baltimore Central Booking and Intake Center were indicted over allegations that they helped leaders of a dangerous national gang operate a drug-trafficking and money-laundering scheme from behind bars.

DPSCS advises that, given the total number of correctional officers employed by the department, the rotating list of correctional officers eligible to serve on a hearing board is vast (at least 6,000). Once randomly selected to serve on a hearing board, each correctional officer must undergo training on COBR and the disciplinary process. Due to the frequency by which a hearing board is required to convene, the department is continuously having to provide training to new hearing board members. DPSCS advises that this practice slows the hearing board process and leads to less effective hearing boards. According to DPSCS, the bill's changes are intended to increase the efficiency and effectiveness of hearing boards by establishing a smaller pool of candidates to receive robust training and become familiar with the process.

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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mm/lgc

Analysis by: Shirleen M. E. Pilgrim

Direct Inquiries to:
(410) 946-5510
(301) 970-5510

ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

**TITLE OF BILL: Department of Public Safety and Correctional Services –
Correctional Officers’ Bill of Rights – Composition of Hearing Board**

BILL NUMBER: SB 11

**PREPARED BY: Rachel Sessa, Director of Government Affairs, Department of Public
Safety and Correctional Services**

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL
BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL
BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS