

Department of Legislative Services
 Maryland General Assembly
 2020 Session

FISCAL AND POLICY NOTE
 First Reader

House Bill 1463
 Judiciary

(Delegate Feldmark, *et al.*)

Correctional Services - Inmates - Intake and Release Requirements (Reentry
 Success Act of 2020)

This bill requires the Division of Correction (DOC) to (1) acquire and keep on file specified documents for an inmate; (2) provide screening for and access to specified private mediation; (3) provide specified forms to and work with an inmate to ensure the availability of specified documents and benefits at the time of an inmate’s release from confinement; and (4) provide specified documents, transit passes, and medication at the time of release. The bill repeals an existing requirement for the Department of Public Safety and Correctional Services (DPSCS) to issue an identification (ID) card to an inmate prior to release from a State correctional facility. Instead, the Motor Vehicle Administration (MVA) must issue an ID card to an inmate prior to release from confinement in a correctional facility. The bill also establishes other requirements for MVA relating to driver’s licenses of inmates.

Fiscal Summary

State Effect: General fund expenditures increase by *at least* \$1.2 million in FY 2021. Future years reflect annualization and ongoing costs. Transportation Trust Fund (TTF) revenues and expenditures increase, as discussed below.

(in dollars)	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025
SF Rev/Exp	-	-	-	-	-
GF Expenditure	\$1,240,300	\$1,463,900	\$1,497,800	\$1,549,700	\$1,603,500
Net Effect	-/(-)	-/(-)	-/(-)	-/(-)	-/(-)

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

Local Effect: Local expenditures likely increase. Local revenues are not affected. **This bill may impose a mandate on a unit of local government.**

Small Business Effect: None.

Analysis

Bill Summary: On the initial intake of an inmate, DOC must acquire the inmate's Social Security card and birth certificate to be (1) kept on file during the inmate's incarceration and (2) distributed to the inmate on release from confinement. If the inmate or the inmate's family member does not have access to or cannot provide the inmate's Social Security card or birth certificate, DOC must provide the inmate with the forms, fees, and any postage necessary to procure the documents.

For an inmate sentenced to incarceration at a State correctional facility for greater than one year, DOC must, one year before the inmate's anticipated release, provide screening for and access to private mediation between the inmate and an individual identified by the inmate as essential for the inmate's successful reentry into society. The mediation must be facilitated by a specified mediator. DOC staff may visually observe mediation but may not be present in the room or aurally monitor the mediation.

Six months before the anticipated release from confinement of an inmate, DOC must provide the appropriate forms to and work with an inmate to ensure that at the time of release from confinement, an inmate has access to a photo identification card issued by MVA or a driver's license, food supplement program benefits for inmates who qualify, and any medical assistance benefits for inmates who qualify.

At the time of release, DOC must provide an inmate with the inmate's birth certificate and Social Security card, the Maryland Transit Administration (MTA) transit passes adequate for 90 days of travel, and a one-month supply of any medication prescribed to the inmate.

The Commissioner of Correction must adopt regulations to carry out the above requirements.

MVA must issue an ID card to an inmate before release from confinement in a correctional facility. The ID card must meet specified requirements. MVA, in consultation with the Commissioner of Correction, must adopt regulations to implement the provisions relating to ID cards.

The bill further requires a driver's license held by an inmate confined at a correctional facility to remain in full force and effect during the term of confinement. MVA must renew an inmate's driver's license before release from confinement if the license (1) would otherwise have expired during the inmate's term of confinement and (2) is not otherwise suspended, revoked, or canceled.

Current Law/Background: The Commissioner of Correction must issue an ID card to an inmate before release from confinement in a State correctional facility. The ID card must

meet the requirements for secondary identification for the purpose of an ID card issued by MVA under § 12-301 of the Transportation Article.

Identification Cards

On application, MVA must issue an ID card to any applicant who:

- is a resident of the State;
- does not have a driver's license;
- presents a birth certificate or other acceptable proof of age and identity;
- provides satisfactory documentary evidence that the applicant has lawful status;
- provides satisfactory documentary evidence that (1) the applicant has a valid Social Security number by presenting the Social Security card (or specified documents if the card is not available) or (2) the applicant is not eligible for a Social Security number; and
- presents a completed application for an ID card on the appropriate form.

The fee for an ID card is \$15 for an applicant younger than age 18 and \$24 for an applicant age 18 or older. An ID card for an individual experiencing homelessness is \$1. A duplicate or correction ID card is \$20. MVA is not required to charge a fee in specified circumstances.

An ID card must be of the size and design MVA requires and tamperproof, to the extent possible. The card must contain the following information:

- the name, address, birth date, sex, and description of the applicant;
- a color photograph taken by the appropriate procedure required by MVA;
- the expiration date of the ID card;
- the applicant's signature; and
- the signature and seal of the issuing agent.

An ID card may be used as legal identification of the individual to whom it is issued for any purpose.

An ID card issued to an applicant who is age 18 or older is valid for eight years; for an applicant younger than age 18, the ID card is valid for five years. An ID card must be surrendered by the holder upon being issued a Maryland driver's license.

Driver's Licenses

Each application for a driver's license must be made on the form that MVA requires. The application must include, among other things, the applicant's full name, Maryland residence address, race, sex, height, weight, general physical condition, date of birth, and any other pertinent information required by MVA. An applicant must also provide specified documentary evidence that the applicant has a valid Social Security number or that the applicant is not eligible for a Social Security number. Each noncommercial Class A, B, C, or M license issued by MVA must be of the size, design, and content specified by MVA, including the licensee's name and residence address, date of birth, a description, height, weight, sex, a color photograph, the type or class of vehicles that the license authorizes the licensee to drive, the signature and seal of the issuing agent, and a space for the signature of the licensee. When issued and signed, a driver's license authorizes the licensee to drive any vehicle of the type or class specified on it, subject to any restrictions endorsed on the license.

A Maryland noncommercial driver's license issued to an applicant age 21 or older is valid for a maximum of eight years. MVA typically sends a renewal notice at least 60 days before a license expiration date. However, an applicant does not need the notice to apply. If the applicant is age 25 or older, the individual is permitted to apply for a renewal license at any time during the period from six months before the license expires to one year after it expires. (However, a person is prohibited from driving – or attempting to drive – with an expired license.)

If an individual is younger than age 21, the applicant must wait until his or her 21st birthday or thereafter to renew; the applicant's license will expire no later than 60 days after his or her 21st birthday.

The renewal fee for an eight-year noncommercial driver's license is \$48.

Applicants without Lawful Status

MVA may issue a driver's license, ID card, or moped operator's permit to an applicant without lawful status under specified circumstances if the applicant would otherwise be eligible for that document. The applicant must provide documentary evidence that the applicant, for each of the preceding two years, has filed a Maryland income tax return or has resided in Maryland and been claimed as a dependent by an individual who has filed a Maryland income tax return. These documents, however, are not acceptable by federal agencies for official purposes determined by the Secretary of Homeland Security. These documents must clearly state on their face and in the machine-readable zone that they are not acceptable by federal agencies for official purposes and must have a unique

design or color indicator. The documents must also include a statement that the document may not be used to purchase a firearm.

Existing DPSCS/MVA Program

DPSCS advises that, since 2012, it has issued approximately 19,000 MVA ID cards to inmates prior to and after release. DPSCS further advises that, under the current partnership with MVA, its staff takes necessary photographs for ID cards and uploads them to MVA. Once the photo is uploaded, the necessary application packet is transported by facility staff to the local MVA office for processing. DPSCS staff returns to the MVA office the following week and retrieves the ID cards. DPSCS notes that inmates may also obtain an MVA ID card (at a cost of \$2) within 60 days after their release by going directly to a local MVA branch; they must show their release ID card, release paperwork, proof of residence, Social Security card, and birth certificate.

Not all prisoners set for release are eligible for MVA ID cards. For example, ID cards are not provided to inmates who do not plan to reside in the State, to inmates with an outstanding detainer, if an inmate refuses, or if DPSCS does not receive the inmate's birth certificate or Social Security card. DPSCS is unable to quantify the exact number of prisoners released each year who are excluded from the MVA ID card program.

In fiscal 2019, approximately 4,400 individuals were released from State correctional facilities.

In addition, the Governor's Office of Crime Control and Prevention advises that about 81,718 inmates were released from local detention facilities statewide in 2018, including both sentenced and pretrial inmates. Further, inmates may be released on the same day they are booked.

REAL ID Act

On May 11, 2005, President George W. Bush signed into law the federal REAL ID Act, which requires federal agencies to accept only personal ID cards that meet certain standards. The U.S. Department of Homeland Security issued final regulations in January 2008. Pursuant to the regulations, MVA must verify the identity and lawful status of each applicant for a driver's license or ID card. Once fully enforced, driver's licenses and ID cards issued by states that are not in compliance with REAL ID standards will not be recognized for federal purposes, including accessing a federal facility and boarding a federally regulated commercial aircraft.

Mental Illness Medications

DPSCS must provide an inmate who has been sentenced to an incarceration term with DOC and who has been diagnosed with a mental illness with access to a 30-day supply of medication for the mental illness upon release of the inmate.

A 30-day supply of a mental health medication may only be provided if the treating physician determines that the released inmate's possession of the medication in the prescribed quantity is in the inmate's best interest and will not constitute a danger to the inmate. Immunity from liability is granted for all employees or agents of DPSCS or a local correctional facility, including a physician or corporate entity providing medical services to inmates, for the issuance or prescription of medication to an inmate upon the inmate's release. This immunity applies notwithstanding that the released inmate is no longer under the care or supervision of the prescribing physician and may be without medical supervision for the period for which the medication has been administered. DPSCS may now issue medications for chronic or acute medical conditions to prerelease inmates, but without a limitation on liability as provided under the bill.

Maryland Transit Administration

MTA is a modal unit within the Maryland Department of Transportation, and it operates a comprehensive transit system throughout the Baltimore-Washington metropolitan area, including more than 50 local bus lines in Baltimore and other services such as the light rail, Baltimore Metro subway, commuter buses, Maryland Area Regional Commuter (MARC) trains, and mobility/paratransit vehicles.

State Fiscal Effect: General fund expenditures increase by *at least* \$1.2 million in fiscal 2021 for DPSCS and the Maryland Department of Health (MDH) to implement the bill. Future year expenditures are annualized and reflect ongoing costs. TTF revenues and expenditures increase, as discussed below.

Department of Public Safety and Correctional Services

General fund expenditures for DPSCS increase by *at least* \$1,153,456 in fiscal 2021, which accounts for the bill's October 1, 2020 effective date. This estimate reflects the cost of hiring 19 social workers to work with inmates throughout State correctional facilities to obtain the required documents and benefits under the bill. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Positions	19
Salaries and Fringe Benefits	\$1,051,497
Operating Expenses	<u>101,959</u>
FY 2021 DPSCS Staffing Expenditures	\$1,153,456

Future year expenditures reflect full salaries with annual increases and employee turnover and ongoing operating expenses.

Additional effects on DPSCS are discussed below.

Social Security Cards: DPSCS has a memorandum of understanding (MOU) with the Social Security Administration (SSA) to allow for an inmate to apply for a Social Security card within 180 days of release. SSA sets the terms for the agreement. It is unclear whether the MOU can be modified to meet the bill’s requirements.

MTA Transit Passes: Monthly passes on MTA’s system that provide unlimited travel on CityLink, LocalLink, Light Rail, Metro Subway, and Baltimore Neighborhood Shuttles (not including MARC service) cost \$74 for 31 days. Thus, the cost for three monthly passes to meet the bill’s 90-day requirement is \$222. Although MTA transit passes generally only work in the Baltimore area, under the bill, *every inmate* released from a DOC facility must be provided with an MTA transit pass. *For illustrative purposes only*, assuming DPSCS purchases the passes at face value, if 4,000 inmates receive MTA transit passes prior to their release each year (assuming a cost of \$222 per 90-day pass), general fund expenditures for DPSCS increase by approximately \$888,000 annually to purchase the passes from MTA. TTF revenues increase correspondingly, assuming that none of these inmates would have otherwise purchased a transit pass.

This analysis does not include any costs for mediation or medications required under the bill, as such costs cannot be reliably estimated at this time.

DPSCS can adopt required regulations with existing budgeted resources.

Maryland Department of Health

General fund expenditures for MDH increase by \$86,855 in fiscal 2021, which accounts for the bill’s October 1, 2020 effective date. This estimate reflects the cost of hiring two office clerks to process additional birth certificates each year for inmates requesting birth certificates as a result of the bill. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Positions	2
Salaries and Fringe Benefits	\$76,122
Operating Expenses	<u>10,733</u>
Total FY 2021 MDH Expenditures	\$86,855

Future year expenditures reflect full salaries with annual increases and employee turnover and ongoing operating expenses.

Motor Vehicle Administration

As the terms “correctional facility” and “inmate” encompass *all* individuals held in State and local facilities, some expenditures cannot be accurately quantified for this analysis. As MVA does not have direct access to inmates, the bill can only be implemented with the ongoing cooperation of DPSCS and the establishment of similar protocols and procedures working with local correctional facilities. This analysis assumes that the existing program between MVA and DPSCS is maintained with minimal or no changes (to the extent additional inmates released from State facilities qualify).

MVA advises that TTF expenditures are not materially affected as a result of the bill’s requirement for MVA to issue ID cards to inmates before release from confinement in a correctional facility. The Department of Legislative Services (DLS) generally concurs. However, DLS advises that the impact on TTF expenditures depends on how many additional ID cards must be printed for inmates throughout the State and the system implemented with local correctional facilities. With regard to State correctional facilities, as many as 2,000 inmates each year do not currently receive an MVA ID card prior to their release – some portion of them may already have a valid ID card or not qualify for an MVA ID card for other reasons, such as not planning to reside in Maryland.

Given considerable uncertainty regarding how many additional MVA ID cards have to be issued under the bill, DLS cannot precisely quantify the impact on State expenditures due to this requirement. This analysis assumes that DPSCS can absorb the impact should additional inmates qualify for and receive MVA ID cards prior to their release from State correctional facilities but costs increase slightly for MVA should this occur. MVA costs increase further to develop a similar system as that currently in place with DPSCS to process MVA ID cards for inmates who are being released from local correctional facilities. *For illustrative purposes only*, if an additional 1,000 *State* inmates receive MVA ID cards prior to their release each year (assuming a cost of \$24 per ID card), TTF expenditures increase by approximately \$24,000 annually. If 10% of individuals released from *local* correctional facilities each year receive MVA ID cards prior to their release, TTF expenditures increase by an additional \$196,100 annually. Under this scenario, TTF expenditures increase by about \$220,100 annually (and by \$165,100 in fiscal 2021, reflecting the bill’s October 1, 2020 effective date). This illustrative estimate

does not account for any additional costs associated with expanding the uploading of photos to encompass those from local correctional facilities.

This analysis assumes that all MVA ID cards issued to inmates prior to their release are provided free of charge, consistent with the current program with DPSCS. To the extent the bill results in fewer former inmates obtaining MVA ID cards within 60 days of release at a cost of \$2 each, TTF revenues decline minimally. *For illustrative purposes only*, if all inmates under the scenario above would have otherwise obtained an ID card after release, TTF revenues decrease by less than \$20,000 annually.

Local Fiscal Effect: Local expenditures are likewise expected to increase as a result of the bill's provisions relating to MVA due to "correctional facility" and "inmate" encompassing *all* individuals held in State and local facilities. As MVA does not have direct access to inmates, the bill can only be implemented with the establishment of similar protocols for local correctional facilities as those established with DPSCS for inmates in State correctional facilities. Local expenditures likely increase to handle transactions with MVA on behalf of inmates prior to their release.

Approximately 81,700 individuals were released from local correctional facilities in 2018; this figure includes both sentenced and pretrial inmates released, some of whom may be released the day of booking.

Additional Comments: MVA advises that certain provisions of the bill cannot be implemented. Specifically, the bill's requirement that a driver's license held by an inmate remain in full force and effect during the inmate's term of confinement conflicts with federal law (which specifies that the maximum term of validity for a driver's license is eight years). Under the bill, if an inmate's license were to expire during the term of confinement, MVA would be required to keep the license active (contrary to federal law).

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Comptroller's Office; Maryland Department of Health; Department of Public Safety and Correctional Services; Maryland Department of Transportation; Department of Legislative Services

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