

Department of Legislative Services
Maryland General Assembly
2020 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 698

(Senators Waldstreicher and Sydnor)

Judicial Proceedings

Division of Parole and Probation - Central Home Detention Unit - Powers

This bill establishes a Central Home Detention Unit (CHDU) within the Department of Public Safety and Correctional Services' (DPSCS) Division of Parole and Probation (DPP). The bill grants employees of the unit who are authorized to make arrests the powers of police and peace officers and classifies them as police officers and law enforcement officers (1) subject to the Law Enforcement Officers' Bill of Rights (LEOBR) and (2) eligible for certification by the Maryland Police Training and Standards Commission (MPTSC).

Fiscal Summary

State Effect: Significant increase in general fund expenditures for DPSCS, as discussed below. Revenues are not affected.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: The Director of DPP may authorize DPP employees of CHDU to:

- execute warrants for the retaking of participants;
- execute warrants for the arrest of participants for whom a warrant is issued for an alleged violation of probation or parole;

- obtain and execute search warrants as authorized under § 6-109 of the Correctional Services Article; and
- arrest participants as authorized under § 2-207 of the Criminal Procedure Article.

A parole and probation employee who is authorized to make arrests must meet the minimum qualifications required by MPTSC and complete satisfactorily the training prescribed by MPTSC.

“Participant” means an individual on parole, on probation, in pretrial custody, or serving a sentence of incarceration who is participating in a home detention program.

Current Law:

Generally, DPP:

- administers a validated screening tool on individuals on parole or mandatory supervision under supervision of DPP;
- administers a risk and needs assessment and develops an individualized case plan for individuals on parole or mandatory supervision who have been screened as moderate or high risk to reoffend;
- supervises individuals on parole or mandatory supervision based on the results of the required validated screening tool or risk and needs assessments;
- regularly informs the Maryland Parole Commission of the activities of offenders it supervises;
- issues warrants for the retaking of an offender charged with a violation of parole or mandatory supervision; and
- administers the Drinking Driver Monitor Program.

With the Secretary of Public Safety and Correctional Services’ approval, DPP’s director may establish a home detention program under which an offender may live in a private dwelling that the director approves. The program is designed as an alternative to incarceration for a parolee who:

- is charged with a violation of a condition of parole by the issuance of a summons or retake warrant;
- is found guilty of violating a condition of parole that is technical in nature;
- is alleged to have violated a condition of parole by being charged with committing a new, nonviolent crime or has been convicted of a new, nonviolent crime which resulted in a sentence of probation, fine, or short-term incarceration; or

- is in imminent danger of having parole revoked after a retake warrant or summons has been issued.

An offender in the program must be supervised by electronic devices and direct contact by DPP employees. An offender is not eligible for the program if a violation of a condition of parole or mandatory supervision is based on the commission of a crime of violence.

While in the program, an offender must remain in the offender's approved dwelling, with specified exceptions, and the offender is responsible for all of the offender's living expenses.

Benefits for Police and Law Enforcement Officers

LEOBR was enacted in 1974 to guarantee police officers specified procedural safeguards in any investigation that could lead to disciplinary action. It extends to police officers of 26 specified State and local agencies but does not extend to any correctional officers in the State. LEOBR extends uniform protections to officers in two major components of the disciplinary process: (1) the conduct of internal investigations of complaints that may lead to a recommendation of disciplinary action against a police officer; and (2) procedures that must be followed once an investigation results in a recommendation that an officer be disciplined. LEOBR requirements are much more restrictive and time consuming than general State personnel requirements under Title 11 of the State Personnel and Pensions Article. Specifically, LEOBR delineates who can do the investigation, what management must disclose to the employee, and when and where the meeting can take place; it also limits the duration of the meeting.

Maryland Police Training and Standards Commission

Chapter 519 of 2016 reconstituted the former Police Training Commission as MPTSC, an independent commission within DPSCS. MPTSC operates approved police training schools and prescribes standards for and certifies schools that offer police and security training. In consultation and cooperation with various entities, it also sets minimum qualifications for instructors and certifies qualified instructors for approved training schools.

MPTSC certifies persons as police officers who have met commission standards, including submission to a criminal history records check and a specified psychological evaluation. An individual who is not satisfactorily trained in the 12-month probationary period may not be employed as a police officer, and a police officer may not serve after certification has been revoked, suspended, or allowed to lapse.

Background: DPSCS already has already established a CHDU. DPSCS advises that CHDU has 36 enforcement officers who are responsible for monitoring 154 inmates and 16 pretrial release detainees.

State Expenditures: General fund expenditures for DPSCS increase significantly as a result of enforcement officers within CHDU becoming classified as police officers and law enforcement officers. The increase in costs relates to moving positions from the standard salary schedule to the consolidated law enforcement salary scale within DPSCS, training, and equipment.

The Governor's proposed fiscal 2021 budget includes approximately \$2.5 million for 36 positions within CHDU. If all 36 officers are moved to the law enforcement salary scale similar to law enforcement officers within the department's Warrant Apprehension Unit, salary costs increase by more than \$600,000 annually. A precise estimate of the increase in salary costs cannot be made at this time.

Each officer must meet MPTSC minimum qualifications and satisfactorily complete the training prescribed by MPTSC (a full police academy program with higher training standards). In addition, each officer requires additional equipment and a law enforcement vehicle. DPSCS estimates the cost of a law enforcement vehicle at \$39,500; thus, general fund expenditures increase by approximately \$1.4 million in fiscal 2021 only for DPSCS to purchase 36 additional vehicles. This estimate does not reflect any other equipment that may be needed.

As the bill does not add the enforcement officers to the Law Enforcement Officers' Pension System (LEOPS), pension benefits remain the same.

Additional Comments: LEOPS provides various pension and death benefits. Membership in LEOPS is a condition of employment for State law enforcement employees in 21 specified groups, including the Warrant Apprehension Unit within DPP. The bill does not explicitly add employees of CHDU to LEOPS; so those employees remain members of the Employees' Pension System.

Additional Information

Prior Introductions: HB 839 of 2019 passed the House and was referred to the Senate Judicial Proceedings Committee, but no further action was taken. Its cross file, SB 779, received a hearing in the Senate Judicial Proceedings Committee but was subsequently withdrawn.

Designated Cross File: None.

Information Source(s): Department of Public Safety and Correctional Services;
Department of State Police; Department of Legislative Services

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mm/lgc

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