

**Department of Legislative Services**  
Maryland General Assembly  
2023 Session

**FISCAL AND POLICY NOTE**  
**First Reader**

Senate Bill 941

(Senator Benson, *et al.*)

Judicial Proceedings

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**Correctional Services – Inmates – Labor, Job Training, and Educational Courses**

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This bill prohibits the compensation rate for inmate labor in Maryland Correctional Enterprises (MCE) from being less than the minimum wage under the federal Fair Labor Standards Act (FLSA). The bill also requires the Division of Correction (DOC) to offer, subject to safety and security concerns, job training and educational courses to all inmates, as specified. Annually, by March 1, the Department of Public Safety and Correctional Services (DPSCS) must report to the Governor and the General Assembly on the job training and educational courses offered by DOC, as specified. The Maryland Department of Labor (MDL) must (1) partner with specified entities to develop the job training programs to be offered; (2) on an ongoing basis, evaluate the job training and educational courses offered by DOC; and (3) by December 31 every three years beginning December 31, 2024, report specified information regarding the courses to the Governor and the General Assembly. MDL must consider the footprint, physical structure, and staffing of DOC facilities in making any recommendations for new or modified programming.

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**Fiscal Summary**

**State Effect:** Significant increase in general fund expenditures for DPSCS beginning in FY 2024. MDL can implement the bill's changes with existing resources. Revenues are not affected.

**Local Effect:** None. The bill does not affect local government operations or finances.

**Small Business Effect:** None.

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## Analysis

### Current Law:

#### *Maryland Correctional Enterprises*

MCE (formerly State Use Industries) provides work and job training for inmates incarcerated in State correctional facilities. MCE produces goods and supplies services at a cost that does not exceed the prevailing average market price. These goods and services are used by local, State, and federal agencies. These goods are also available for use by charitable, civic, educational, fraternal, or religious organizations.

The Commissioner of Correction and the Chief Executive Officer of Maryland Correctional Enterprises must establish the compensation rate for inmate labor in MCE, taking into consideration other wage payments and incentives in other programs. Inmate wages are standard throughout State correctional facilities. The starting pay scale is based on skill category, with wages ranging from \$2.16 daily for unskilled positions up to minimum wage for MCE work release positions.

#### *Management of Inmate Earnings, Generally*

DPSCS must collect an inmate's earnings and (1) if required, reimburse the county or State for the cost of providing food, lodging, and clothing to the inmate; (2) pay court-ordered payments for support of dependents; (3) pay court-ordered payments for restitution; and (4) pay compensation for victims of crime, as specified. For an inmate participating in the Private Sector/Prison Industry Enhancement Certification Program of the U.S. Department of Justice (Bureau of Justice Assistance), DPSCS must withhold 20% of the inmate's earnings for compensation to victims of crime, in accordance with the requirements of the program. DPSCS must withhold 25% of an inmate's earnings for compensation to victims of crime until the judgment is satisfied, if the inmate is subject to an unsatisfied judgment of restitution but not a participant in the certification program.

#### *Federal Fair Labor Standards Act and the Maryland Wage and Hour Law, Generally*

FLSA contains federal minimum wage provisions. Effective since July 24, 2009, the federal minimum wage is \$7.25 per hour. The Maryland Wage and Hour Law is the State complement to FLSA and specifies minimum wage and overtime requirements for employers and employees in the State. Chapters 10 and 11 of 2019 increased the State minimum wage rate for employers with 15 or more employees in six increments until the full phase-in of \$15.00 per hour on January 1, 2025. The Acts specify that, unless the federal minimum wage is set at a higher rate, the State minimum wage for employers with 15 or more employees is as follows:

- \$11.00 per hour as of January 1, 2020;
- \$11.75 per hour as of January 1, 2021;
- \$12.50 per hour as of January 1, 2022;
- \$13.25 per hour as of January 1, 2023;
- \$14.00 per hour as of January 1, 2024; and
- \$15.00 per hour as of January 1, 2025.

## **State Expenditures:**

### *Inmate Wages*

In order for MCE to pay to pay a minimum compensation rate of the federal minimum wage (currently \$7.25 per hour), costs for MCE increase significantly; however, the Department of Legislative Services (DLS) does not have sufficient information at this time to reliably estimate the increase in general fund expenditures due to this provision. The starting pay scale for inmates is based on skill category, with wages ranging from \$2.16 daily for unskilled positions up to minimum wage for MCE work release positions. Inmate stipends totaled \$1.8 million in fiscal 2022.

DPSCS advises that MCE currently provides occupational training to more than 1,200 participants at approximately 2,000 hours per participant annually. *For illustrative purposes*, if the number of participants and hours remain constant over time and approximately half of the participants receive an increase of \$5.00 per hour as a result of the bill (some inmate wages are based on daily participation and some are paid as an hourly rate), general fund expenditures for DPSCS increase by approximately \$6.0 million annually.

### *Job Training and Educational Courses*

MDL administers correctional education in DOC facilities to a portion of the inmate population, including occupational and transitional courses. MDL serves approximately 5,000 inmates annually through occupational and transitional programs. MDL also offers classes in financial literacy with components related to investing and civics education. DPSCS also partners with several post-secondary education institutions to provide college level courses to inmates who qualify.

In 2022, there were approximately 15,000 individuals in DOC custody. Under the bill, *DOC* (not MDL) is required to offer job training and educational courses to *all* inmates, subject to safety and security concerns. In order for DOC to offer job training and educational offerings that must include courses above GED level, financial literacy, investing, and civics, additional staff are needed, resulting in significant increased costs for

DOC; however, DLS does not have sufficient information at this time to reliably estimate any increase in general fund expenditures.

MDL can partner with labor unions, trade associations, and educational institutions to develop the job training programs to be offered – and evaluate the courses offered by DOC – with existing resources. MDL advises that it already partners with those entities.

### *Annual Report*

DPSCS and MDL can complete the required annual reports with existing resources.

**Additional Comments:** The Correctional Education Council was established in 2008 to oversee the implementation of MDL’s Correctional Education Program. The council’s 2022 annual report can be found [here](#).

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## **Additional Information**

**Prior Introductions:** Similar legislation has been introduced within the last three years. See HB 1245 and SB 964 of 2022; and HB 102 and SB 194 of 2021.

**Designated Cross File:** HB 1057 (Delegate Hill, *et al.*) - Judiciary.

**Information Source(s):** Maryland Department of Labor; Department of Public Safety and Correctional Services; Department of Legislative Services

**Fiscal Note History:** First Reader - March 10, 2023  
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