

Department of Legislative Services
Maryland General Assembly
2023 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1123

(Delegate Young, *et al.*)

Appropriations and Judiciary

**Correctional Services – Maryland Correctional Enterprises – Minimum Wage
and Inmate Financial Accounts**

This bill prohibits the compensation rate for inmate labor in Maryland Correctional Enterprises (MCE) from being lower than the State minimum wage. The bill also requires the mandatory workforce skills training program administered by Maryland Department of Labor (MDL) to include a class on financial literacy, job readiness training, and job placement assistance. In addition, the bill establishes uses for an inmate financial account maintained by the Division of Correction (DOC) for each inmate in a correctional facility.

Fiscal Summary

State Effect: Significant increase in general fund expenditures for the Department of Public Safety and Correctional Services (DPSCS) beginning in FY 2024. MDL can implement the bill's changes with existing resources. Potential decrease in special fund revenues, as discussed below.

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

Small Business Effect: None.

Analysis

Bill Summary: For an inmate financial account, for the purchase of items at the prison commissary, the inmate must have access to:

- 5% of the balance, if the monthly balance is equal to or greater than \$4,000;

- \$200 of the balance, if the monthly balance is at least \$200 and not greater than \$4,000; and
- the full balance, if the monthly balance is less than \$200.

After the amount to which the inmate is entitled is deducted, the remaining balance in an inmate's account must be used to pay any court-ordered financial obligations. Any balance remaining in the inmate's account after these requirements have been met may be provided to the inmate's family at the direction of the inmate or saved in the inmate's account to be provided to the inmate on release. The Commission of Correction must adopt regulations that ensure the immediate release of the balance of an inmate's account on release of the inmate.

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.

Maryland Wage and Hour Law, Generally

The federal Fair Labor Standards Act (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 Fiscal Effect:

Inmate Wages

In order for MCE to pay a minimum compensation rate of the State minimum wage per hour (currently \$13.25 per hour, but increasing as discussed above), costs for MCE increase significantly; however, the Department of Legislative Services 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 \$10.00 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 \$12.0 million annually.

In addition, the bill creates a significant operational impact on DPSCS, as providing inmates with tax-free earnings at a rate that is almost equal to the pay rate for entry-level

correctional officers, dietary personnel, maintenance personnel, and other positions within DOC will be a deterrent to hiring and retention of staff for correctional facilities.

Inmate Financial Accounts

Every inmate within DOC has a financial account held in the Maryland Offender Banking System – the banking system used to manage inmate financial accounts. Each inmate account includes a reserve account with a minimum \$50 balance, which may only be used when the inmate is released. Account balances may be increased by deposits from payroll or family and friends. A maximum of \$85 per week from the account may be used for commissary purchases; however, an inmate needs approval from the managing official in order to purchase items from an outside source. A managing official may also authorize spending for other discretionary purposes such as college expenses and sending money to family or friends.

DPSCS receives 20% of all commissionable sales through the commissary and uses 100% of the revenue to fund the inmate welfare fund. This fund is used to provide goods and services, such as library books and supplies, inmate welfare kits, barbershop supplies, ice, recreational supplies, newspapers, educational tablets, and access to the Prisoner Rights Information System of Maryland (known as PRISM) for legal assistance in certain civil rights matters, which benefit the general inmate population. Limiting the amount that an inmate can spend on commissary purchases, decreases commissary revenues, which decreases the amount of available funds in the inmate welfare fund.

Further, the bill's restrictions on inmate financial accounts do not account for the payment priorities on inmate accounts that exist under current law, which include costs for providing food, lodging, and clothing, court-ordered payments for support of dependents, court-ordered payment for restitution, and payments to the Criminal Injuries Compensation Fund and the State Victims of Crime Fund. Under current law, payment is first made to statutory obligations, then the remaining balance is applied to the inmate financial account.

DPSCS can handle the bill's requirements relating to inmate accounts with existing resources; however, funds available for the inmate welfare fund likely decrease, as noted above. In addition, some inmates may not have sufficient funds available to meet other statutory requirements.

Workforce Skills Training by the Maryland Department of Labor

MDL oversees the Office of Correctional Education (OCE), which provides a range of academic and workforce development instruction to inmates throughout DOC. As part of this programming, OCE offers occupational and transitional activities, including financial literacy, job readiness training, and job placement assistance. Therefore, MDL can handle

the bill's requirements regarding the mandatory workforce skills training program with existing resources.

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](#).

Additional Information

Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

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

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