

**Department of Legislative Services**  
Maryland General Assembly  
2026 Session

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

Senate Bill 985 (Senator Smith)  
Judicial Proceedings

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**Correctional Services - Immigration Detention Facilities - Minimum Mandatory Standards**

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This emergency bill (1) expands the requirement for the Secretary of Public Safety and Correctional Services to adopt regulations establishing certain minimum mandatory standards applicable to the care, custody, and conditions of incarcerated individuals to apply to civil detainees in immigration detention facilities; (2) alters and expands the duties of the Maryland Commission on Correctional Standards (MCCS) relating to correctional facilities to incorporate immigration detention facilities; (3) requires specified health care practitioners and security guards to report specified violations and security breaches to the commission and requires specified regulating bodies to take appropriate disciplinary action if the health care practitioner or a security guard fails to report violations; (4) applies specified existing compliance, audit, and enforcement provisions to immigration detention facilities; (5) authorizes the Attorney General to bring an action against a private entity that owns, manages, or operates a correctional facility or an immigration detention facility for specified violations; (6) authorizes the commission to cease operation of an immigration detention facility under specified circumstances; and (7) requires the commission and the Secretary of Public Safety and Correctional Services to adopt emergency regulations relating to the bill's provisions by June 1, 2026.

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**Fiscal Summary**

**State Effect:** Potential significant increase in general fund expenditures, as discussed below. Revenues are not affected.

**Local Effect:** The bill is not anticipated to materially affect local government finances.

**Small Business Effect:** None.

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## Analysis

### Bill Summary:

*Annual Report:* The bill expands the required annual report by the commission to include a detailed analysis of compliance issues at correctional facilities and immigration detention facilities and recommendations to address compliance issues identified. The report provided may not disclose personal identifying information of an incarcerated individual or a civil detainee. The commission must provide the governing body of each county and municipal corporation that has an immigration detention facility with a copy of its annual report.

*Reports of Violations:* The bill authorizes any person to report a violation of the minimum mandatory standards by a correctional facility or an immigration detention facility to the commission. The commission must establish a standardized process for the reporting, receipt, and timely review of reported violations and the Department of Public Safety and Correctional Services (DPSCS) must provide and maintain a link on the commission's website for the public to report a violation anonymously. The commission and DPSCS must maintain the confidentiality of any personal identifying information of an incarcerated individual or a civil detainee that is provided in a report.

After completing review of a violation reported under the bill's provisions, the commission may:

- inspect the correctional facility or the immigration detention facility, as specified;
- send a compliance plan to the correctional facility or the immigration detention facility, as specified;
- determine that the facility is life-threatening or health-endangering and order the immediate cessation of operation of the correctional facility or the immigration detention facility, as specified; or
- take any other action necessary to protect the health and safety of incarcerated individuals or civil detainees.

An individual who provides services to a correctional facility or an immigration detention facility in the individual's capacity as a licensed health care practitioner or a certified security guard must report to the commission (1) a violation of the minimum mandatory standards that the individual has reason to believe has been committed by a correctional facility or an immigration detention facility and (2) a known breach of the security of a system of a correctional facility or an immigration detention facility. If the regulating body for a licensed health care practitioner or a certified security guard determines that an individual has failed to submit a report in violation of these provisions, the licensing body

must take appropriate disciplinary action. A correctional facility or an immigration detention facility may not retaliate against an employee for submitting, in good faith, a report of a violation.

*Facility Certification:* By July 1, 2026, and each July 1 thereafter, each correctional facility and immigration detention facility in the State must submit a certification to the commission that the facility:

- has adequate and reliable utilities that comply with State and local laws and regulations, as specified;
- has functional heating, ventilation, and air conditioning;
- maintains an emergency power system to ensure the safe operation of the facility in the event of a disruption in electrical power; and
- maintains an emergency operations plan to respond to utility disruptions, a breach of the security of a system, fires, and medical emergencies.

A facility must submit a copy of the required emergency operations plan with the certification and review and update the plan at least annually. In addition, the facility must include sufficient documentation to support the basis for the certification and promptly respond to requests for additional information from the commission.

If a correctional facility or an immigration detention facility has a material change in operations or a material increase in occupancy, the facility must submit an updated certification to the commission within 30 days of the change. If a correctional facility or an immigration detention facility fails to submit the required certification or supporting documentation, the commission must (1) determine that the facility is life-threatening or health-endangering and order the immediate cessation of operation of the correctional facility or the immigration detention facility, as specified or (2) take any other action necessary to protect the health and safety of incarcerated individuals or civil detainees.

*Facility Inspection:* The commission may conduct an inspection in conjunction with an appropriate unit of State or local government, such as the State Fire Marshal or the Maryland Department of Health. The managing official or employees of a correctional facility or the owner, operator, manager, or employees of an immigration detention facility may not restrict, prevent, or otherwise impede an inspection from being conducted in accordance with the bill's provisions. If any individual violates these provisions, the commission must order the immediate cessation of operation of the applicable correctional facility or immigration detention facility.

If the commission or an authorized inspector finds a condition in an immigration detention facility that is life threatening or health endangering, the commission or inspector may

order the immediate cessation of operation. If an immigration detention facility is ordered closed by the commission or authorized inspector, all civil detainees in the facility must be transferred to and accepted into a suitable place of detention, as specified, at the expense of the State, local governing body, or federal entity responsible for the cost of the closed facility.

*Action Against a Private Entity:* In addition to any other action specifically authorized, the Attorney General may bring an action against a private entity that owns, manages, or operates, in whole or in part, a correctional facility or an immigration detention facility for: (1) retaliating against an employee for submitting a report of a violation, as specified; (2) failing to comply with certification requirements, as specified; (3) impeding a commission inspection, as specified; or (4) failing to comply with the audit findings of the commission, as specified. Each day that a private entity fails to correct a violation constitutes a separate violation. In an action brought under these provisions, the Attorney General may seek: (1) injunctive relief; (2) a maximum civil penalty of \$10,000 for each violation payable into the general fund of the State; (3) reasonable attorney's fees and costs; and (4) any other appropriate relief.

*Definitions:* "Breach of the security of a system" means the unauthorized acquisition of computerized data that compromises the security, confidentiality, or integrity of personal identifying information maintained in the system.

"Civil detainee" means an individual who is actually or constructively detained or confined in an immigration detention facility.

"Licensed health care practitioner" means an individual licensed, certified, or otherwise authorized to practice a health occupation under the health occupations article.

**Current Law:** MCCS is an existing entity within DPSCS that includes the Attorney General, the Secretary of General Services, and the Secretary of Budget and Management. With the advice of the commission, the Secretary of Public Safety and Correctional Services has set, by regulation, minimum mandatory standards applicable to security and inmate control, inmate safety, inmate food services, inmate housing and sanitation, inmate rights, classification, hearings, and administrative record keeping. Such standards apply to all State and local correctional facilities.

In addition, the Secretary of Public Safety and Correctional Services, with the advice of the commission, has adopted regulations that establish approved standards applicable to personnel, training, administration, management, planning and coordination, research and evaluation, physical plant, special management inmates, rules and discipline, mail and visiting, reception and orientation, property control, work programs, educational and vocational training, library services, religious services, recreational activities, counseling,

release preparation, and volunteers. These standards apply to all State facilities and may be adopted, in whole or in part, by a local correctional facility. All mandatory minimum standards and approved standards adopted must be consistent with State and federal law.

The commission is required to: (1) establish and implement a process to inspect State and local correctional facilities to determine and certify compliance with applicable standards; and (2) determine deadlines for remedial action and reinspection whenever inspection reports indicate noncompliance with applicable standards. The commission may review and act on appeals from staff inspection reports.

If the commission determines that a correctional facility is in violation of minimum, mandatory standards for State and local correctional facilities, the commission must send a compliance plan containing specified information to the facility with a copy to the appropriate executive and legislative body. If, after sending a compliance plan and reinspecting a facility, the commission determines that the facility is still in violation of the minimum, mandatory standards, the commission must send a letter of reprimand containing specified information to the correctional facility, with a copy to the appropriate executive and legislative body.

If, after the commission has sent a letter of reprimand and reinspected the facility, the facility continues to be in violation of the minimum, mandatory standards, the commission must (1) conduct a full standards and performance audit of the facility addressing specified items or (2) periodically inspect the facility until compliance is attained and send a report of each inspection to specified entities. As part of a full standards and performance audit, the commission must examine (1) the physical condition of the correctional facility; (2) the safety and treatment of inmates at the correctional facility; (3) whether the correctional facility has policies and procedures in place as required; and (4) whether the correctional facility is following the required policies and procedures. If the commission lacks the expertise necessary to perform a part of the full standards and performance audit, the commission may obtain assistance from sources with expertise in the specific standard. If the commission needs to obtain assistance, the correctional facility that is being audited must reimburse the commission for any cost incurred.

After completing an audit, the commission must send a letter to the correctional facility, with a copy to the appropriate executive and legislative bodies, containing a copy of the audit findings, a date specified for compliance with the audit findings, and other specified information. Within a reasonable time after the date specified for compliance, the commission must conduct an unannounced inspection to verify that the correctional facility has complied with the audit findings.

If, after performing an audit and unannounced inspection and holding a hearing on the issue, the commission determines that a correctional facility has not complied with the

audit findings, the commission must: (1) petition a circuit court for a court order requiring the correctional facility to comply with the audit findings; or (2) issue an order to cease operation of the correctional facility or any of its components. The commission must provide to a correctional facility reasonable notice of a hearing and may subpoena witnesses.

**State Expenditures:** The bill may result in a significant increase in general fund expenditures for DPSCS.

The commission currently inspects State and local correctional facilities to determine compliance with applicable standards. The bill alters and expands the duties to immigration detention facilities located in the State. As of January 2026, the Department of Homeland Security has not opened its own detention facility in the State nor has it contracted with a private entity to operate one. However, the Trump administration has significantly ramped up immigration enforcement over the last year and news reports suggest that proposals for immigration detention facilities are under consideration within the State. Currently, some individuals are temporarily detained in the Immigration and Customs Enforcement field office at the Fallon Federal Building in Baltimore while awaiting transfer to facilities outside of the State. To the extent that immigration detention facilities begin to operate within the State, the commission likely needs additional staff to complete the required inspections and certifications. Although the total number of staff needed to implement the bill cannot be reliably estimated at this time, costs are anticipated to be potentially significant.

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### **Additional Information**

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

**Designated Cross File:** HB 1018 (Delegate Stewart, *et al.*) - Government, Labor, and Elections.

**Information Source(s):** Dorchester and Garrett counties; Judiciary (Administrative Office of the Courts); Department of State Police; Office of Administrative Hearings; Department of Legislative Services

**Fiscal Note History:** First Reader - March 9, 2026  
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