



Department of Public Safety and Correctional Services

Office of Government & Legislative Affairs

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BILL: SENATE BILL 658

POSITION: OPPOSE

EXPLANATION: This bill is specific to correctional facilities, Division of Parole Probation, the Division of Correction, and law enforcement agencies, among others. The provides that no governmental authority or an agent of a governmental authority may engage in a practice or conduct that deprives an individual of rights, privileges or immunities secured or protected by the U.S. Constitution or the Maryland Constitution or State or local law. The bill further provides that the Office of Attorney General may bring a civil action to obtain appropriate and declaratory relief to eliminate the practice or conduct.

COMMENTS:

The Department of Public Safety and Correctional Services (Department) operates the Division of Correction (DOC), the Division of Pretrial Detention and Services (DPDS), and the Division of Parole and Probation (DPP).

- DOC operates 13 State correctional facilities housing offenders sentenced to periods of incarceration for 18 months and longer.
- DPDS operates the Baltimore City Pretrial Complex which houses pretrial detainees and incarcerated individuals sentenced to incarceration for periods of 18 months and less.
- DPP supervises parolees, probationers and those on mandatory release from correctional facilities.
- The Department respects the rights, privileges, and immunities secured by the U.S. Constitution and the Maryland Constitution as well as State and local law.
- The Office of the Attorney General (OAG) is the Chief legal officer of the State and acts as legal advisors of State agencies, officials and institutions of State Government. The OAG represents the State in matters involving State government.
- The Correctional Litigation Division of the OAG, provides legal representation for State officials and correctional employees who are

sued by prisoners in federal and State courts for acts arising within the scope of their performance of their duties.

- The Department has an assigned Assistant Attorney General who is responsible for defending the Department against any legal actions.
- Under this bill, the Office of the Attorney General (OAG) may bring a civil action AGAINST the Department in order to obtain the appropriate relief of the practice or conduct that caused an individual's deprivation of rights.
- SB 658 would have the OAG bring action against the Department, while the OAG would also defend the Department against the same action.
- If the Department is expected to obtain independent counsel to defend against the OAG actions, there will be an exorbitant fiscal cost associated with the legal fees which would double if the action moved to court proceeding. The fiscal impact to the State would be exorbitant regardless of whether the OAG or the Department funds the costs of an independent counsel.

CONCLUSION: For these reasons, the Department of Public Safety and Correctional Services respectfully urges the Committee to consider an **UNFAVORABLE** vote on Senate Bill 658.