

**Department of Legislative Services**  
Maryland General Assembly  
2012 Session

**FISCAL AND POLICY NOTE**

Senate Bill 205

(Senator Edwards)

Judicial Proceedings

Appropriations

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**Garrett County - Correctional Officers' Bill of Rights**

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This bill provides for rights of a correctional officer relating to the employment, investigation, and discipline of correctional officers in Garrett County. The bill's provisions are the same as the provisions of the Correctional Officers' Bill of Rights applicable in Cecil and St. Mary's counties.

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**Fiscal Summary**

**State Effect:** None.

**Local Effect:** Minimal. The bill's changes will not significantly affect Garrett County's operations or finances. Any future impacts arising from decisions of hearing boards cannot be reliably predicted.

**Small Business Effect:** None.

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**Analysis**

**Bill Summary:** Similar to the Correctional Officers' Bill of Rights (COBOR) for Division of Correction employees (Chapter 194 of 2010), this bill does not limit the authority of the appointing authority in Garrett County to regulate the competent and effective operation and management of the local correctional facility by reasonable means including the transfer and reassignment of employees if (1) that action is not punitive in nature; and (2) the appointing authority determines that action to be in the best interests of the internal management of the correctional facility.

Under both COBOR and this bill, a correctional officer may not be required or requested to disclose an item of the correctional officer's property, income, assets, source of income, debts, or personal or domestic expenditures, including those of a member of the correctional officer's family or household, unless the disclosure is required by federal or state law or the information is necessary to investigate a possible conflict of interest with respect to the performance of the correctional officer's duties. Although, under both COBOR and this bill, a correctional officer may waive in writing any rights granted under the statute, the right of a correctional officer to bring suit arising out of the officer's duties may not be abridged.

However, unlike the State provisions, this bill does not enumerate or define "misconduct." This bill specifies procedures for complaints of brutality and COBOR does not, *per se*. However, COBOR does specify that an appointing authority may not recommend disciplinary action against a correctional officer for excessive use of force against an inmate based solely on the uncorroborated statement of the inmate unless the appointing authority determines that there exists any indicia of reliability to support the inmate's allegation. Under COBOR, at least 24 hours before an interrogation, the correctional officer under investigation must be informed of the name, rank, and command of (1) the person in charge of the investigation; (2) the interrogating officer; and (3) each individual who will be present during the interrogation. Under this bill, there is no specified timeframe for that notification.

Under COBOR and this bill, a correctional officer is entitled to counsel and results of a polygraph examination may not be used as evidence in an administrative proceedings without agreement from both parties. Timeframes for notification of all charges and witnesses against a correctional officer differ. Under COBOR, it must be made at least 20 days prior to a hearing. Under this bill, it is 10 days.

Though the details differ, procedures for the issuance of subpoenas exist under both COBOR and this bill. Any decision, order, or action taken by a hearing board must be in writing and accompanied by findings of fact. A finding of not guilty terminates the action. For a finding of guilty, the procedures for determination of penalty differ. However, an appeal from a decision may be taken to the circuit court for the appropriate county under Maryland Rule 7-202. A decision by the circuit court may be appealed to the Court of Special Appeals. Provisions for emergency suspensions, with or without pay, are included under the bill and COBOR.

**Current Law:** Chapter 689 of 2008 provided for rights of a correctional officer relating to the employment, investigation, and discipline of correctional officers in Cecil County. Chapter 128 of 2011 included correctional officers in St. Mary's County under these same provisions.

Chapter 194 of 2010 provides for rights of a State correctional officer relating to the employment, investigation, and discipline of correctional officers who are employees of the Division of Correction working in a State correctional facility. The COBOR established exclusive procedures for the investigation and discipline of a State employed correctional officer for alleged misconduct.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Garrett County, Department of Legislative Services

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Analysis by: Guy G. Cherry

Direct Inquiries to:  
(410) 946-5510  
(301) 970-5510