

Department of Legislative Services
 Maryland General Assembly
 2026 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 1018

(Delegate Stewart, *et al.*)

Government, Labor, and Elections

Judicial Proceedings

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

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) to incorporate immigration detention facilities; (3) requires reporting of specified violations and security breaches to MCCS; (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 MCCS to cease operation of an immigration detention facility under specified circumstances; and (7) requires MCCS and the Secretary of Public Safety and Correctional Services to adopt emergency regulations relating to the bill’s provisions by June 1, 2026.

Fiscal Summary

State Effect: No effect in FY 2026. General fund expenditures increase by at least \$302,000 in FY 2027 for staff, as discussed below. Future years reflect annualization and ongoing costs. Revenues are not affected.

(in dollars)	FY 2027	FY 2028	FY 2029	FY 2030	FY 2031
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	302,000	270,400	283,100	296,000	308,900
Net Effect	(\$302,000)	(\$270,400)	(\$283,100)	(\$296,000)	(\$308,900)

Note: () = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

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

Small Business Effect: None.

Analysis

Bill Summary:

Annual Report: The bill expands the required annual report by M CCS 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. M CCS 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 M CCS. M CCS 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 M CCS website for the public to report a violation anonymously. M CCS 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, M CCS 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;
- refer the violation to the Office of the Inspector General for further investigation; 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, a certified security guard, a licensed emergency medical technician, or a private custodial transportation service must report to M CCS (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, a certified security guard, an emergency medical technician, or a private custodial transportation service 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 MCCA that the facility:

- has adequate and reliable utilities that comply with State and local laws and regulations, as specified;
- maintains utility coordination for potable water, sewer, and electricity services;
- maintains an emergency power system to ensure the safe operation of the facility in the event of a disruption in electrical power;
- maintains an emergency operations plan to respond to utility disruptions, a breach of the security of a system, fires, and medical emergencies;
- has coordination protocols with local fire departments and emergency medical services, emergency management, and local hospitals;
- operates within the occupancy standard established under the minimum mandatory standards; and
- operates within the capacity of available utilities and emergency services.

A facility must submit an unredacted copy of the required emergency operations plan with the certification; however, the facility may redact sensitive security and intelligence information to maintain internal security procedures and investigations and provide a redacted copy to the public. The facility must 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 MCCA.

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 MCCA within 30 days of the change. If a correctional facility or an immigration detention facility fails to submit the required certification or supporting documentation, MCCA 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: M CCS 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, M CCS must order the immediate cessation of operation of the applicable correctional facility or immigration detention facility.

If M CCS or an authorized inspector finds a condition in an immigration detention facility that is life threatening or health endangering, M CCS or inspector may order the immediate cessation of operation. If an immigration detention facility is ordered closed by M CCS 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 an M CCS inspection, as specified; or (4) failing to comply with the audit findings of M CCS, 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: M CCS 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 M CCS, 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 M CCS, 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.

M CCS 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. M CCS may review and act on appeals from staff inspection reports.

If M CCS determines that a correctional facility is in violation of minimum, mandatory standards for State and local correctional facilities, M CCS 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, M CCS determines that the facility is still in violation of the minimum, mandatory standards, M CCS 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 M CCS has sent a letter of reprimand and reinspected the facility, the facility continues to be in violation of the minimum, mandatory standards, M CCS 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, M CCS 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 M CCS lacks the expertise necessary to perform a part of the full standards and performance audit, M CCS may obtain assistance from sources with expertise in the specific standard. If M CCS needs to obtain assistance, the correctional facility that is being audited must reimburse M CCS for any cost incurred.

After completing an audit, M CCS 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, M CCS 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, M CCS determines that a correctional facility has not complied with the audit findings, M CCS 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. M CCS must provide to a correctional facility reasonable notice of a hearing and may subpoena witnesses.

State Expenditures: General fund expenditures for DPSCS increase by at least \$301,981 beginning in fiscal 2027.

M CCS 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. To the extent that immigration detention facilities begin to operate within the State, M CCS likely needs additional staff to complete the required inspections and certifications.

DPSCS advises that the bill significantly increases work for the agency in order to establish minimum mandatory standards applicable to immigration detention facilities and to conduct inspections and certifications of immigration detention facilities, which cannot be estimated at this time. DPSCS advises that it needs 18 new staff positions (1 program manager, 1 administrator, 15 administrative officers, and 1 management associate) to assist with these efforts. DPSCS did not provide data on anticipated inspections and certifications under the bill or additional information regarding how it developed this estimate.

Regardless, the Department of Legislative Services estimates that at least one program manager, one administrator, and one administrative officer are required to implement the bill. Should DPSCS require additional staff after actual experience under the bill, DPSCS can request those positions through the annual budget process.

Thus, general fund expenditures increase by at least \$301,981 in fiscal 2027, which assumes that the program is implemented at the start of fiscal 2027. This estimate reflects the cost of hiring one program manager, one administrator, and one administrative officer to establish minimum mandatory standards and to handle inspections and certifications expanded under the bill. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Positions	3.0
Salaries and Fringe Benefits	\$272,476
Operating Expenses	<u>29,505</u>
Minimum FY 2027 State Expenditures	\$301,981

Future year expenditures reflect full salaries with annual increases and employee turnover as well as annual increases in ongoing operating expenses.

This estimate assumes that DPSCS can adopt the required emergency regulations by June 1, 2026 with existing resources.

Additional Information

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

Designated Cross File: SB 985 (Senator Smith) - Judicial Proceedings.

Information Source(s): Anne Arundel, Baltimore, Charles, 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 - February 10, 2026
caw/hlb Third Reader - March 31, 2026
Revised - Amendment(s) - March 31, 2026

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