

SENATE APPROPRIATIONS COMMITTEE FISCAL NOTE

BILL NO. Senate Bill 404

PRINTER NO. 894

AMOUNT
\$212,970 Minimal Annual Costs

FUND
General Fund

DATE INTRODUCED
February 5, 2015

PRIME SPONSOR
Senator Argall

DESCRIPTION AND PURPOSE OF BILL

Senate Bill 404 creates a free-standing act entitled the "Correctional Officers Investigation Procedure Act" to establish certain guidelines and procedures governing the investigation and interrogation of correctional officers by the Pennsylvania Department of Corrections (DOC) as a result of a complaint of alleged misconduct.

Specifically, rights granted to correctional officers and interrogation procedures that must be followed by the DOC are set forth as follows:

- Correctional officers shall be provided with at least 24 hours' notice of an interrogation by the DOC and shall occur when the correctional officer is on duty, unless the seriousness of the investigation is such that an immediate investigation is necessary;
- Prohibits correctional officers from being terminated or disciplined for any work missed because of the interrogation;
- The interrogation shall take place at one of the following locations:
 - I. Office of the investigating officer;
 - II. Office of the correctional facility conducting the investigation;
 - III. An office within a building owned or leased by the DOC; or
 - IV. Such other location as is necessary to protect the safety or identity of the correctional officer.
- Correctional Officers being interrogated shall be informed of the name and rank of the correctional officer in charge of the interrogation and the names of any correctional personnel that will be present;
- Correctional officers under interrogation shall be informed in writing of the nature of the complaint and provided with the name or names of the complainant not less than 24 hours prior to the interrogation;
- Anonymous or unsworn complaints, where no corroborative evidence is found within the applicable statute of limitations, must be classified as unfounded and expunged from the correctional officer's personnel files;
- Interrogations shall allow for reasonable rest periods and personal necessities;

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- Correctional officers under interrogation may not be offered promises of rewards or threatened during interrogations;
- Interrogations shall be recorded, including any recess periods, and made available to all parties involved, upon request, at no cost;
- Correctional officers who are under arrest at the time of the interrogation shall be informed of all rights prior to the commencement of the interrogation;
- Correctional officers shall have the right to be represented by counsel or other representatives, as well as have collective bargaining representatives present, during an interrogation;
- Civil complaints made more than 90 days after the applicable statute of limitations have expired shall be classified as unfounded and completely expunged from their personnel file;
- Civil complaints alleging misdemeanors or felonies, if proven, shall not be classified as unfounded or expunged until the applicable statute of limitations expires;
- Correctional officers may refuse to submit to a polygraph examination, without penalty, and such refusals shall not be admitted as evidence at a subsequent hearing or trial;
- Correctional officers shall not be subjected to or threatened with adverse employment-action as a result of the exercise of the rights provided by this legislation; and
- Correctional officers shall not be required to disclose personal and financial information that is greater than what is normally required to be disclosed by principal elected DOC officials, unless the information is obtained by a subpoena or legal procedures.

This legislation further provides that the above mentioned correctional officers' rights shall not apply to any interrogation of a correctional officer in the normal course of duty, counseling, instruction, informal verbal admonishment or other routine or unplanned contact with a supervisor or any other correctional officer.

Correctional officers are provided with a right of civil action for damages suffered as a result of a filed complaint that is found to be frivolous or without merit and made in bad faith.

Collective bargaining agreements may provide greater rights to correctional officers, but may not diminish the rights set forth in this legislation.

Suspension of a correctional officer shall be in accordance with provisions of the state Civil Service Act (P.L. 752, No. 286), except as follows:

- No suspension based on a pending internal investigation shall last more than 60 days from the effective date of the suspension;

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- Written notice of suspension shall be provided to the correctional officer no later than 5 working days after the effective date of suspension; and
- A correctional officer's medical benefits and insurance shall continue during the period of suspension.

A correctional officer may be suspended without pay pending disposition of any criminal charges involving a misdemeanor or felony offense. The officer's medical benefits and insurance may not be suspended until conviction of such charges or separation from the DOC. An officer shall be reinstated and reimbursed for all salary and benefits that have not been paid during the suspension period if there is an acquittal of such criminal charges.

This act shall take effect in 60 days.

FISCAL IMPACT:

According to the Governor's Office of the Budget and the Pennsylvania Department of Corrections (DOC), enactment of this legislation would have a significant fiscal impact on the DOC. The exact amount of the fiscal impact is indeterminate at this time.

The DOC currently investigates approximately 900 inmate abuse investigations annually, requiring in excess of 18,000 interviews. Implementation of the mandates contained within this legislation would require the following:

- Approximately 150 video cameras with digital download capabilities (3 cameras for each State Correctional Institution (SCI), 20 cameras for the Office of Special Investigations and Intelligence (OSII), and the remainder of cameras being distributed to over 50 Community Corrections Center (CCC). \$75,000;
- Transcription costs which would require either the hiring of a clerk typist or a contract with an outside vendor;
- Secure storage of all digital data and transcriptions;
- Staff training on the proper use of video equipment;
- Maintenance of video equipment; and
- Replacement of all video recorders approximately every 5 years.

This legislation also requires that medical benefits continue to be provided during any 60 day period of suspension pending internal investigations at a cost of approximately \$1,800 per suspended employee. Additionally, if criminal charges are filed against an employee, medical benefits must continue to be provided until conviction. Costs of \$1,800 would be incurred every 60 days, per suspended employee, until conviction.

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Currently, the DOC employs approximately 7,665 Correctional Officer Trainees, Correctional Officer I's and Correctional Officer II's. Assuming that 1% of those employees are suspended for a 60 day period during an internal investigation, and continue to receive medical benefits coverage, the annual cost to the DOC would be approximately \$137,970

Therefore, the minimum annual costs to the Commonwealth are estimated to be \$212,970.

The DOC has expressed concerns of the likeliness of a significant increase in grievances and arbitration, thereby increasing costs incurred by the DOC.