

**Department of Legislative Services**  
Maryland General Assembly  
2013 Session

**FISCAL AND POLICY NOTE**

House Bill 244 (Chair, Judiciary Committee)(By Request - Departmental - Public Safety and Correctional Services)

Judiciary

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**Correctional Services - Department of Public Safety and Correctional Services -  
Subpoena Power**

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This departmental bill authorizes the Secretary of Public Safety and Correctional Services to subpoena, administer an oath to, and examine under oath any person if the Secretary considers it necessary for an effective administration of the Secretary's duties. A person who has been subpoenaed and fails to appear or testify is guilty of a misdemeanor and subject to a maximum fine of \$500. A person who makes a false statement under oath before the Secretary is guilty of perjury and subject to existing penalties for that offense.

The bill repeals the existing and similar subpoena powers for the Commissioner of Correction.

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**Fiscal Summary**

**State Effect:** Providing that the Secretary of Public Safety and Correctional Services has subpoena powers, rather than the Commissioner of Correction, would not substantively affect the operations or finances of the Department of Public Safety and Correctional Services (DPSCS).

**Local Effect:** None.

**Small Business Effect:** DPSCS has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment.

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## Analysis

**Current Law:** The Secretary of Public Safety and Correctional Services may exercise any power, duty, responsibility, or function of any unit head or appointing officer in DPSCS. The Commissioner of Correction is a unit head in the department.

The Commissioner of Correction may subpoena, administer an oath to, and examine under oath any person if the commissioner considers it necessary for an effective administration of the commissioner's duties. A person who has been subpoenaed and fails to appear or testify is guilty of a misdemeanor and subject to a maximum fine of \$50. A person who makes a false statement under oath before the commissioner is guilty of perjury and subject to current law penalties for that offense.

A person convicted of perjury or subornation of perjury is guilty of a misdemeanor and subject to imprisonment for up to 10 years.

**Background:** DPSCS advises that, since the Secretary is accountable for all components of the department, and because each component plays a vital role in providing for the overall objective of public safety in Maryland, it makes sense to provide the Secretary with the authority provided by the bill rather than the Commissioner of Correction.

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## Additional Information

**Prior Introductions:** Similar bills were introduced in 2001, 2002, and 2004. The most recent, SB 158 of 2004, passed the Senate and the House with differing amendments. No further action was taken.

**Cross File:** None.

**Information Source(s):** Judiciary (Administrative Office of the Courts), Department of Public Safety and Correctional Services, Department of Legislative Services

**Fiscal Note History:** First Reader - February 4, 2013  
mlm/lgc

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Correctional Services – Department of Public Safety and  
Correctional Services – Secretary’s Powers – Subpoena Power

BILL NUMBER: HB 244

PREPARED BY: Department of Public Safety and Correctional Services

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL  
BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL  
BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

The proposed legislation will have no impact on small business in Maryland.