

Department of Planning and Budget 2018 Fiscal Impact Statement

1. Bill Number: SB 851

House of Origin	<input type="checkbox"/>	Introduced	<input type="checkbox"/>	Substitute	<input checked="" type="checkbox"/>	Engrossed
Second House	<input type="checkbox"/>	In Committee	<input checked="" type="checkbox"/>	Substitute	<input type="checkbox"/>	Enrolled

2. Patron: Marsden

3. Committee: Reported from committee

4. Title: Correctional Officer Procedural Guarantee Act

5. Summary:

Current law includes a Law-Enforcement Officers Procedural Guarantee Act, which provides a procedure, separate from the state or any local grievance procedure that law-enforcement officers employed by state agencies, local police departments, and institutions of higher education may use in cases that could lead to dismissal, demotion, suspension, or transfer for punitive reasons. Under the law, the officers may use either the process established in the Procedural Guarantee Act or the state or local grievance process.

The proposed legislation would establish the following similar procedures, to which the Department of Corrections would be required to adhere in order to dismiss, demote, suspend, or transfer for punitive reasons a non-probationary correctional officer:

1. Notify the officer in writing of all charges, the basis therefore, and the action that may be taken.
2. Give the officer at least three days to respond orally and in writing.
3. Provide the officer written notification of his/her right to initiate a grievance proceeding as established by the Department of Human Resource Management or request a hearing before a panel of correctional or security officers.
4. If the hearing is chosen, the officer and the agency would have the opportunity to present evidence and examine and cross-examine witnesses. The officer would have the opportunity to be represented by counsel or other representative.
5. The recommendations of the hearing panel would be advisory, but shall be accorded significant weight.

Under the provisions of the legislation, DOC would have the option skipping the first steps of presenting the charges and giving the officer at least three days to respond; rather, it could proceed immediately to the hearing panel stage after presenting a statement of the charges.

6. Budget Amendment Necessary: No.

7. Fiscal Impact Estimates: Preliminary. Indeterminate. See Item 8 below.

8. Fiscal Implications:

The proposed legislation could have a fiscal impact because of its potential to lengthen disciplinary proceedings against correctional officers. There are several provisions of the proposed legislation that could result in additional administrative actions that would have to be taken by the agency. The fiscal impact of most of these provisions would be indeterminate or indirect.

One provision that could increase the length of the investigation and the overall disciplinary process is the one that would require DOC to provide a correctional officer a minimum of three calendar days to respond to any charges at the conclusion of an investigation. The current state grievance procedure requires that an employee be given a minimum of 24 hours to respond to charges. Currently, according to DOC officials, the agency provides additional time for officers to respond if there are scheduling difficulties or the charges are complex.

When a correctional officer is being investigated for possible disciplinary action, the agency may place him or her on paid pre-disciplinary leave. Whether an officer is actually placed on such leave is dependent on the possible infractions and the circumstances surrounding the case. When an officer is on such unscheduled leave, his or her assigned duty post will have to be staffed by another officer working overtime. To the extent that the proposed legislation would result in a total of more hours of paid pre-disciplinary leave provided to correctional officers facing disciplinary action than would be the case under the current system, there would be additional overtime costs for the agency. However, the data on the number of officers now provided fewer than three days of paid administrative leave to respond to charges and the average amount of leave granted them is not available. In addition, the proposed legislation would allow DOC to immediately suspend without pay an officer who is being investigated, thereby offsetting some of any overtime costs.

Another provision that could have a fiscal impact is the holding of a hearing by a panel of security officers. The duty posts of the officer being charged and the officers on the panel will likely need to be staffed by other officers working overtime during the time it takes to establish the panel and hold the hearing. Because DOC will be able to suspend without pay the officer, some of that overtime cost would be offset.

In summary, because there are numerous factors for which data is unavailable or cannot be projected, the fiscal impact of the proposed legislation cannot be determined.

9. Specific Agency or Political Subdivisions Affected: Department of Corrections

10. Technical Amendment Necessary: None.

11. Other Comments: Identical to HB 1418.