Department of Public Safety and Correctional Services

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DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES
DIVISION OF PRETRIAL DETENTION SERVICES
FY 2021 OPERATING BUDGET

Response to Department of Legislative Services Budget Analysis

Recommended Actions:

1. Add the following language:

Provided that $6,270,972 of this appropriation for the purpose of substance abuse treatment services may only be expended for that purpose or for the purpose of providing aid to political subdivisions to implement Chapter 532 of 2019. Funds unexpended at the end of the fiscal year shall revert to the fund of origin.

Response: The Department shares the Department of Legislative Services' concern regarding substance abuse funding, but disagrees with their recommendation to restrict nearly $6.3 million for the purposes of funding either substance abuse treatment **OR** implementing Chapter 532. This places the Department in a very precarious position by forcing the agency to either fund substance abuse treatment agency wide or fund the implementation Chapter 532, which is specific to medication assisted treatment (MAT) at the Division of Pretrial, Detention, and Services (DPDS).

If the Budget Committees were to adopt this Recommended Action, and the Department opted to expend the $6.3 million to implement Chapter 532, the entire Division of Correction (DOC) would suffer tremendously as Chapter 532 was specific to providing MAT at DPDS. The Department offers substance abuse treatment within the DOC and DPDS that was not contemplated or included in Chapter 532, which would cease to exist. More importantly, the Department has already made significant progress in expanding substance abuse treatment in the DOC, which would come to a halt if this option were exercised. The Department issued a request for proposals for a new substance abuse treatment contract and bids were due at the end of January. The Department is now in the evaluation stage of the process and will be seeking to make an award as quickly as possible. The Department is also making process in filling its vacant full-time substance abuse treatment provider positions. All of these efforts would be discontinued if the Department were to solely expend the $6.3 to implement Chapter 532 at DPDS.

It is important to note that this issue cannot be resolved by simply substituting the “or” for “and” by restricting $6.3 million to be used for substance abuse treatment services AND to implement Chapter 532. To do both would cost more than $6.3 million. **The Department’s fiscal year 2021 budget as introduced does include an additional $1.1 million to begin implementing Chapter 532. However, the Department of Legislative Services is recommending cutting this funding under Recommended Action 3, which the Department also opposes as discussed below.** The budget as submitted addresses the need for baseline substance abuse funding across the entire Department with an expansion of an Opioid Pilot Program in the City.

The Department respectfully requests that the Committees support the budget initiatives as introduced and reject DLS’s recommended action.

2. Add the following language to the general fund appropriation:

, provided that $1,000,000 of this appropriation may not be expended until the Department of Public Safety and Correctional Services (DPSCS) conducts a review of the agreement to operate the Chesapeake Detention Facility (CDF) as a federal facility, reaches out to the U.S. Marshals Service to renegotiate the agreement, and submits a report on these efforts to the budget committees. The report shall include a detailed history of the use of this facility as a federal detention center, results of efforts to renegotiate the agreement, options to reduce the reliance on general funds for this facility (including the consequences of exiting the agreement prior to expiration), and plans for the facility following the conclusion of the agreement. The report shall be submitted by December 1, 2020, and the budget committees shall have 45 days to review and comment. Funds restricted pending the receipt of a report may not be transferred by budget amendment or otherwise to any other purpose and shall revert to the General Fund if the report is not submitted to the budget committees.

Response: The Department shares DLS’s concern regarding the need to backfill operating costs at the Chesapeake Detention Facility (CDF) with State funds. However, the Department strongly disagrees with the recommended action to restrict $1 million in CDF’s General Fund appropriation pending receipt of a report. The amount recommended is extremely disproportionate, representing 25% of the total General Funds allocated. These funds are budgeted solely for providing inmate medical care.

The Department acknowledges that the contract with the U.S. Federal Marshal's office is currently not the most financially advantageous arrangement for the State. To be clear, the contract was agreed to by the prior administration covering the period from September 1, 2010 to August 30, 2025. The agreement requires that the Department provide all necessary personnel, equipment, materials, supplies, and services for the management of comprehensive detention services, which include, but are not limited to, security, medical services, food service, safety and sanitation. The contract established a firm-fixed price agreement which is adjusted every two-years based on the Consumer Price Index (CPI), and is not subject to adjustment on the basis of the State's actual cost experience in providing this service. The contract provides that the U.S. Government reserves the right to take corrective action to ensure full compliance which may or may not include enforcing a price reduction to the State for non-performance.

Under the terms of the agreement, either party may initiate a request for modification to the agreement. However, both parties must agree to use best efforts to resolve disputes in an informal fashion through consultation and communication, or other forms of non-binding alternative dispute resolution which is mutually acceptable to the parties. The Department has reached out to discuss the terms and conditions of the contract, which has yielded success as the U.S. Marshal's Office provided an additional $3.7 million to install an air conditioning system throughout the housing units. At this point in time, requests to increase the monthly per-diem rate have not been approved and primarily for increased operating costs (salaries and fringes) which were unknown when the agreement was originally signed. With respect to the additional funds expended for critical maintenance projects in FY 2019, the Department would have had to spend those funds to maintain the institution, regardless of the agreement with the U.S. Marshal's Office. As noted in other departmental analyses additional funding is required in which to maintain the Department's aging infrastructure.

The Department respectfully requests the Budget Committee's reject the recommended restriction, as this recommendation fails to effectively resolve this issue and negatively impacts the Department's efforts of negotiation as outlined in the agreement which would most certainly not be in the best interests of the State.

3. <u>Delete $886,258 in additional substance abuse treatment funding based on prior year actual expenditures. This reduction still allows for a nearly $300,000 increase over the fiscal 2020 appropriation.</u>

Response: The Department disagrees with the recommendation to cut $886,258 in additional substance abuse funding based on prior year actual spending as this action essentially eliminates all funding that was included to begin implementing Chapter 532. Substance abuse treatment funding as provided for in the FY 2020 budget totals $1.2 million, which does not include funding associated with the implementation of Chapter 532 of 2019. This was due to the timing of the budget submission and approval process. The FY 2020 budget was submitted and approved prior to the effective date of Chapter 532. The FY 2021 budget includes an additional $1.1 million to begin implementing Chapter 532. Therefore, it is inaccurate to compare the two budgets based on the enhanced level of funding.