

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 27, § 726.

In subsection (a) of this section, the former reference to "attention" of inmates is deleted as unnecessary in light of the comprehensive reference to "care" of inmates.

Also in subsection (a) of this section, the former phrase "from time to time" is deleted as surplusage.

The Correctional Services Article Review Committee notes, for consideration by the General Assembly, that the part of former Art. 27, § 726 that is revised in subsection (a)(1) of this section required that expenses relating to guarding, transporting, lodging, feeding, clothing, and otherwise caring for an inmate be "paid out of any moneys in the [T]reasury available therefor and not otherwise appropriated". The Committee believes that this requirement may be unconstitutional under Md. Constitution, Art. III, §§ 32 and 52.

Under Md. Constitution, Art. III, § 52(1), the General Assembly is prohibited from "appropriat[ing] any money out of the Treasury except in accordance with the provisions of this section". Md. Constitution, Art. III, § 52(2) requires that "[e]very appropriation bill ... be either a Budget Bill, or a Supplementary Appropriation Bill, as hereinafter provided". The Committee believes that the requirement in subsection (a)(1) of this section that expenses be paid out of money in the Treasury that has not been "otherwise appropriated" may be unconstitutional because the bill that originally enacted this requirement was not a Budget Bill or a Supplementary Appropriation Bill. See Ch. 4, Acts of 1917.

Even if subsection (a)(1) of this section does not violate Md. Constitution, Art. III, § 52, the Committee believes that it may violate Md. Constitution, Art. III, § 32, because it places no cap on the amount of money that can be drawn from the Treasury. Md. Constitution, Art. III, § 32 provides that "[n]o money shall be drawn from the Treasury of the State, by any order or resolution, nor except in accordance with an appropriation by Law; and every such Law shall distinctly specify the sum appropriated, and the object, to which it shall be applied".

To eliminate any question about the constitutionality of subsection (a)(1) of this section, the General Assembly may wish to repeal the language that allows expenses to be "paid out of money in the Treasury that has not been otherwise appropriated and is available for those purposes".

Defined terms: "Comptroller" § 1-101

"County" § 1-101

"Division of Correction" § 1-101

"Inmate" § 1-101