

Department of Fiscal Services
Maryland General Assembly

FISCAL NOTE

Senate Bill 121 (Senator Munson)
Judicial Proceedings

Inmates - Frivolous or Malicious Lawsuits - Penalties

This bill requires inmates of the Division of Correction or a local detention center to pay all required filing fees and court costs when filing civil actions. The bill also provides for court dismissal of frivolous or malicious inmate civil suits.

Fiscal Summary

State Effect: Indeterminate increases in general fund revenues and expenditures as discussed below.

Local Effect: Indeterminate increases in revenues and expenditures as discussed below.

Small Business Effect: None. The bill would not directly affect small businesses.

Fiscal Analysis

Bill Summary: This bill requires inmates of the Division of Correction or a local detention center to pay all required filing fees and court costs when filing civil actions. Inmates unable to pay must be ordered to make specified percentage payments. They must file certified records of any financial accounts maintained on their behalf. The bill authorizes financial accounts of inmates to be charged for filing fee and court cost assessments.

The bill authorizes and provides for the Commissioner of Correction or the managing officer of the detention center to make specified applicable withdrawals and payments from these accounts. Waivers of filing fees and court costs are allowed under certain circumstances.

In addition, the bill permits a court to dismiss a civil action filed by an inmate if it is found that: (1) the action is, in whole or in part, frivolous or malicious; or (2) the inmate offered

statements, evidence, or information that were false. The bill allows a court to consider certain questions in making such a determination. Hearings for these determinations are authorized, and written notice of dismissed actions are required to be sent to the commissioner or managing officer. Revocation of some or all of an inmate's diminution credits is required if a court orders dismissal of a civil action as frivolous or malicious.

State Effect: It is not known how many current civil filings by inmates could be found frivolous or malicious pursuant to this bill. In any event, the magnitude and form of the bill's impact on State finances and operations is substantially dependent on its ability to deter frivolous or malicious civil actions by inmates, which cannot be reliably estimated at this time.

There are approximately 480 inmate civil action cases defended by the Attorney General annually. These are cases where the State and/or its employees are being sued by inmates. In addition, there are also large numbers of inmate filings annually in the form of petitions to change names which, regardless of the change sought, are not now treated as frivolous or malicious by the judiciary. New federal legislation aimed at reducing inmate filings in federal courts may have the effect of driving the number of state filings significantly higher. The workload of the Office of the Attorney General could be significantly affected by this bill, but only to the extent that staff time now spent in court or otherwise defending the State and/or its employees would be reallocated.

General fund revenues could increase to the extent that the bill's provisions for the payment of filing fees and court costs is successful in securing actual payments from inmates, for those cases heard in the District Court or the courts of appeal. The Administrative Office of the Courts believes the magnitude of that revenue would be negligible.

The Division of Correction (DOC) believes that this bill could also lead to some indeterminate additional operating costs associated with handling new responsibilities related to inmate accounts and time records. The amount of that possible increase was not quantified. However, since inmates' accounts are already maintained by DOC, the Department of Fiscal Services assumes that these costs would not be significant.

General fund expenditures could increase due to the bill's provisions for loss of diminution credits when a DOC inmate's actions are dismissed as frivolous or malicious. Any such loss of credit could necessitate a longer stay of confinement for the inmate, and, thusly, additional costs for the State. In fiscal 1998 the average monthly cost per DOC inmate is estimated at \$1,500.

The bill could also increase State payments to counties for reimbursement of inmate costs, for similar reasons, depending upon the occasion and magnitude of losses of diminution credits at local detention centers. The State reimburses counties for part of their per diem rate after a person has served 90 days. State per diem reimbursements for fiscal 1998 are

estimated to range from \$12 to \$42 per inmate depending upon the jurisdiction. Inmates sentenced in Baltimore City are incarcerated in the Baltimore City Detention Center (BCDC), a State operated facility. The per diem cost for fiscal 1998 is estimated at \$43 per inmate.

Local Effect: Local revenues could increase to the extent that the bill's provisions for the payment of filing fees and court costs is successful in securing actual payments from inmates, for those cases heard in the circuit courts. Such an increase is expected to be minimal.

Local expenditures spent on defending such cases may vary. For example, Prince George's County reports that very few frivolous lawsuits have been filed by county inmates in the past ten years so that this bill will have little impact on the county. However, Allegany County reports that this bill could save thousands of dollars currently spent on defending the county in lawsuits believed to be frivolous or malicious. Counties may also experience some indeterminate administrative costs associated with handling new duties related to administration of inmate accounts and time records. It is assumed that these costs would be minimal.

Expenditures could increase due to the bill's provisions for loss of diminution credits when inmates' actions are dismissed as frivolous or malicious. Any such loss of credit would necessitate a longer stay of confinement in local detention centers for the inmate, and, thusly, additional costs. Counties pay the full cost of incarceration for people in their facilities for the first 90 days of the sentence, plus part of the per diem cost after 90 days. Per diem operating costs of local detention facilities are expected to range from \$23 to \$83 per inmate in fiscal 1998.

Information Source(s): Judiciary (Administrative Office of the Courts), Office of the Attorney General, Department of Public Safety and Correctional Services (Division of Correction), Baltimore City, Allegany County, Prince George's County, Department of Fiscal Services

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