

Department of Legislative Services
Maryland General Assembly
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FISCAL AND POLICY NOTE

House Bill 1140
Appropriations

(Delegate Carter)

Baltimore City - Juvenile Detention Facilities - Moratorium

This bill prohibits the Department of Public Safety and Correctional Services (DPSCS) from planning or constructing the proposed 180-bed New Youth Detention Facility in Baltimore City. The bill specifies that a detention facility for juveniles may not be planned or constructed in Baltimore City until adequate structures are in place and adequate funding is dedicated to meet the educational, recreational, and social services needs of juvenile residents of Baltimore City.

The bill also specifies that it is the intention of the General Assembly that all State funding that would have been used to construct and operate the New Youth Detention Facility, in the amount of not less than \$104 million, must be redirected to Baltimore City schools and to recreation, mentorship, social services, and other programs and services that support youth and prevent juvenile crime.

Fiscal Summary

State Effect: Because the New Youth Detention Facility project is already on hold, the bill would have no impact on the State's Capital Improvement Plan (CIP) projects for FY 2012. However, projects selected for the CIP for general obligation (GO) bond funding after FY 2012 would have to be amended.

Local Effect: None.

Small Business Effect: None.

Analysis

Background: In October 2000, the U.S. Department of Justice (DOJ) began an investigation of the conditions of confinement at the Baltimore City Detention Center (BCDC), a State run facility, to determine if conditions there violated inmates' constitutional rights. DOJ found BCDC to be "deliberately indifferent" to inmates' needs in a number of areas related to fire safety, general sanitation, lighting, electrical, ventilation, etc. Specifically, for youth offenders charged as adults the current facilities do not provide proper sight and sound separation from the adult offender population or adequate educational services, especially for individuals with disabilities. DOJ also found medical, recreational, and food service deficiencies which must be addressed in order to achieve compliance with the memorandum of agreement (MOA) which the State established in January 2007. The project addressed by the bill is one of two capital projects slated in connection with BCDC. The other is a new women's detention facility.

The MOA allows DPSCS four years to achieve full compliance. A major component of achieving compliance is construction of a New Youth Detention Facility, as the design, age, and condition of the facilities at BCDC make it nearly impossible to maintain sight and sound separation of the youth population as required by DOJ.

In addition to being currently housed adjacent to adults, the youth are housed two to a room, inconsistent with standard practice for youth. The rooms do not meet the minimum standards for youth in terms of square footage, lighting, and furniture. The normal practice for youth is to house them individually in rooms, which is not possible at BCDC. The close proximity to each other, lack of privacy, and the poor quality of the housing are all detrimental to the efforts to provide programming and support to this special population.

A number of the actions currently implemented to address the needs of youth offenders are temporary; however, as long as DPSCS can demonstrate progress toward construction of the new facility, it is deemed to be currently in compliance with the MOA.

The New Youth Detention Facility, to be located at or near BCDC, will include inmate housing, educational services, administration, program services (counseling, drug treatment, etc.), visitation, medical, recreation, and food services space for an estimated 180 youth who have been charged as adults. The facility will consolidate all of these functions in one facility to provide complete separation from the adult population. All beds are in single occupancy sleeping rooms, and the rooms will be grouped into six housing units. Each unit has showers, activity space, a multipurpose room, a counseling room, and officer stations to support the unit. The design allows for certain portions of the facility to be double-celled, creating the ability to accommodate a total of 230 youth offenders.

State Fiscal Effect: Initial funding for the project was included in the fiscal 2005-2010 CIP by the Ehrlich Administration. To date, the General Assembly has authorized \$32.7 million for the design and initial construction of the facility. The total estimated cost is approximately \$98.9 million. The third and fourth year of construction funding (fiscal 2012 and 2013) for the detention facility had been pre-authorized in 2010; however, this funding has been deferred to fiscal 2013 and 2014. DPSCS received construction bids for the project in July 2010; however, no decision on the award of the contract has been made. The State has been challenged on the validity of its population projects, with the opposition indicating that 180 beds is too high an estimate. The average population of youth charged as adults for the past six months is approximately 91 youth. However, at the time the program plan was submitted in November 2007, the juvenile charged as adult population was closer to 120 youth, with a peak population near 150 youth.

The project continues to be a priority for the current Administration. DPSCS has encumbered \$6.3 million for the design of this project to date.

DPSCS has delayed award of a construction contract pending the solution to the policy issue of adequate bed space for this population. The initial bid submissions were valid until December 2010, but have now expired. The project will have to be rebid, regardless of whether or not the results of the new population analysis indicate a re-scoping of the project is necessary. Once a contract is awarded, the construction period is estimated to be approximately 30 months. The potential exists for the cost of the project to rise. To the extent the project needs to be re-scoped or the construction market improves, and the project is delayed further, additional design or construction funding might be needed. Such a potential future effect cannot be reliably estimated.

While the bill does not have a direct fiscal or operational impact on the Department of Budget and Management (DBM), the Office of Capital Budget will be required to revise the Governor's CIP to include the provisions of this bill, if passed. The bill places a moratorium on the design and construction of the New Youth Detention Center and requires the transfer of GO bond funds to Baltimore City schools, and recreation, mentorship, social services, and other programs and services for youth. However, DBM advises that § 8-127 of the State Finance and Procurement Article restricts the use of GO bond funds as the State may:

- only use State bonds for the purposes listed in the enabling legislation; and
- only use State bonds for capital improvements unless the enabling act specifies otherwise or in an emergency.

The statute also specifies that an improvement is capital if the useful life of the object equals or exceeds the life of State bonds. DBM advises that the use of GO bonds

authorized for the New Youth Detention Facility is restricted to the design and construction of that facility and may not be used for the other, noncapital purposes, specified in the bill. Therefore, the funds cannot be redirected to the Baltimore City Public Schools and related juvenile programs.

In addition, the fiscal 2012 operating budget includes \$993,100 in Juvenile Justice and Delinquency Prevention (JJDP) grants to the Governor's Office of Crime Control and Prevention. However, the bill's moratorium on construction may impact the State's eligibility for JJDP grant funds in the future.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Baltimore City, Department of Budget and Management, Department of Natural Resources, Maryland State Department of Education, Department of General Services, Department of Juvenile Services, Department of Public Safety and Correctional Services, Department of Legislative Services

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