

Department of Legislative Services
Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE

Senate Bill 398

(Senator Shank)

Judicial Proceedings

Judiciary

Criminal Procedure - Certificate of Completion

This bill authorizes the Department of Public Safety and Correctional Services (DPSCS) to issue a certificate of completion to an “offender” who (1) was supervised by the department under conditions of parole, probation, or mandatory release supervision; (2) has completed all special and general conditions of supervision, including payment of all required restitution, fines, fees, and other payment obligations; and (3) is no longer under the jurisdiction of the department. DPSCS must report to the Governor and General Assembly on the number of certificates of completion issued under the bill by December 31, 2014.

The bill’s provisions must be construed prospectively to apply only to individuals under the supervision of DPSCS on or after July 1, 2014.

Fiscal Summary

State Effect: The bill’s authority can likely be implemented with the existing budgeted resources of DPSCS, as discussed below.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law/Background: The Maryland Parole Commission (MPC) has the exclusive power to authorize the parole of an inmate in State correctional facilities, excluding the Patuxent Institution, or a local correctional facility. An inmate serving a sentence is not eligible for parole until the inmate has served in confinement one-fourth of the inmate’s

aggregate sentence. A person serving a sentence for a crime of violence is not entitled to a parole hearing until after having served one-half of the term. Certain persons are not eligible for parole while serving a mandatory minimum sentence.

When an inmate's total number of diminution credits is equal to the remainder of the sentence, including consideration for any losses of credits, the inmate is eligible for mandatory supervision release. A deduction may not be allowed for a period during which an inmate does not receive credit for service of the inmate's term of confinement, including a period (1) during which the inmate's sentence is stayed; (2) during which the inmate is not in State correctional custody because of escape; or (3) for which MPC has declined to grant credit after revocation of parole or mandatory supervision.

Inmates granted parole or released on mandatory supervision are supervised by DPSCS. The standard conditions of supervision are the same for both parolees and persons released on mandatory supervision release. MPC has the authority to impose any additional conditions of parole or mandatory supervision. Inmates accused of violating the conditions of their supervision have a hearing conducted by a parole commissioner.

The ability to adjust the period of a parole or probation, which is based upon the sentence handed down by a court, is the exclusive jurisdiction of a court. The courts have the authority to place an individual in nonactive supervision status.

MPC has an abatement process under which the active supervision of an offender is ended without effect on the legal expiration date of the case or the offender's obligation to obey all laws, report to DPSCS as instructed, or obtain written permission before relocating outside of Maryland. A supervision agent may request abatement or early termination of an offender's supervision if the offender has completed two consecutive years of crime-free behavior and the offender, as applicable:

- has fully paid any restitution (including a 2% collection fee), fines, court costs, and any fees owed to the Public Defender;
- is current on payment of supervision fees and drug testing fees, as applicable;
- has fulfilled all special conditions;
- is under intermediate or standard supervision; and
- has incurred neither a behavioral nor an actual positive for a drug test administered during the 30 days prior to the submission of the report requesting abatement or early termination.

An offender is not eligible for abatement or early termination if the offender is (1) serving a life sentence; (2) a sexual offender; or (3) registered or is required to register as a sexual offender.

Chapters 564 and 565 of 2012 require DPSCS to establish a program to implement earned compliance credits which create a reduction of up to 20 days in the period of active supervision for a “supervised individual” and to develop policies and procedures for the implementation of the program. MPC or the court may adjust the period of a supervised individual’s supervision on the recommendation of DPSCS for earned compliance credits accrued under the program.

A supervised individual whose period of active supervision has been completely reduced as a result of earned compliance credits must remain on “abatement” until the expiration of the individual’s sentence, unless consenting to continued active supervision or unless violating a condition of probation, parole, or mandatory release supervision including failure to pay a required payment of restitution.

State Fiscal Effect: Currently there is no DPSCS policy that mandates the issuance of a letter or certificate of supervision completion. However, according to DPSCS, offenders often call field agents or the department to request a statement from DPSCS that indicates that they are no longer under supervision. A typical letter to the offender states the opening and closing dates of supervision and confirms that the offender is no longer under supervision. If the case was closed due to revocation, such a letter indicates only the date that the community supervision was closed.

The bill only authorizes, and does not require, DPSCS to issue certificates of completion. DPSCS reports that, if the bill’s authority is used, the bill would require adjustments to its computerized Offender Case Management System. DPSCS further advises that the bill may cause some operational difficulties in determining that all payment obligations have been met by offenders. However, DPSCS advises that the bill’s authority can likely be implemented with existing budgeted resources.

MPC notes that the bill does not specifically address whether offenders whose fees have been waived qualify for the certificate. In fiscal 2013, MPC granted 1,064 requests to waive fees and, as of January 29, 2014, 489 requests have been granted in fiscal 2014. In addition, currently some supervision cases are closed in a satisfactory manner even though unpaid fees had been forwarded for collection.

Additional Comments: Under applicable provisions of the Correctional Services Article, the term “offender” means an individual on parole or under mandatory supervision. The term does not include an individual on probation. Also, the bill states that it must be construed *prospectively* to apply only to individuals under DPSCS supervision on or after July 1, 2014; however, the bill’s effective date is October 1, 2014.

Additional Information

Prior Introductions: HB 541 of 2013 passed the House as amended and was referred to the Senate Judicial Proceedings Committee, but no further action was taken. SB 571 received a hearing in the Senate Judicial Proceedings Committee, but no further action was taken.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts), Department of Public Safety and Correctional Services, Department of Legislative Services

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mm/lgc

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