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FISCAL AND POLICY NOTE
First Reader

House Bill 793
Judiciary

(Delegate Malone, *et al.*)

Correctional Services - Diminution Credits - Good Conduct

This bill alters the calculation of diminution credits for an inmate in a State or local correctional facility.

Fiscal Summary

State Effect: General fund expenditures increase by at least \$920,300 in FY 2019 to hire contractual employees to manually calculate and verify the award of diminution credits for good conduct for all inmates at the end of each month. Future year expenditures cannot be reliably estimated, as discussed below. Revenues are not affected.

Local Effect: Local expenditures increase to the extent that local correctional facilities must hire staff or upgrade computer programming to meet the bill's requirements. Revenues are not affected. **This bill may impose a mandate on a unit of local government.**

Small Business Effect: None.

Analysis

Bill Summary: For inmates in a State correctional facility, instead of allowing a deduction *in advance* and calculating from the *first* day of confinement to the custody of a State correctional facility through the last day of confinement, the bill requires that the credit be calculated on the *last* day of each calendar month during the inmate's term of confinement. For presentence confinement in a local correctional facility, instead of the deduction beginning on the *day the inmate arrives* at the correctional facility, the deduction must be calculated on the *last* day of each calendar month during the inmate's term of confinement.

For an inmate sentenced to a local correctional facility, instead of calculating the deduction from the *first* day of the inmate's post-sentence commitment to the custody of the local correctional facility to the last day of the inmate's maximum term of confinement, the deduction is calculated on the *last* day of each calendar month during the inmate's term of confinement.

Current Law: Diminution credits are days of credit either granted or earned on a monthly basis. Generally, inmates sentenced to a State correctional facility are entitled to earn diminution of confinement credits to reduce the lengths of their incarcerations. The following types of inmates may not earn diminution credits:

- an inmate who is serving a sentence for first- or second-degree rape or sexual offense against a victim younger than 16;
- an inmate who is serving a repeat sentence for third-degree sexual offense against a victim younger than 16; and
- an inmate imprisoned for a lifetime sexual offender supervision violation.

In addition, an inmate whose mandatory supervision release has been revoked may not be awarded any new diminution credits on the term of confinement for which the inmate was on mandatory supervision release.

Diminution credits are deducted from an inmate's "term of confinement," which is defined as (1) the length of the sentence, for a single sentence or (2) the period from the first day of the sentence that begins first through the last day of the sentence that ends last, for concurrent sentences, partially concurrent sentences, consecutive sentences, or a combination of concurrent and consecutive sentences.

Diminution credits are made for good conduct, work tasks, education, and special projects or programs.

For sentences imposed before October 1, 1992: Good conduct credits are awarded at a rate of five days per month regardless of the offense.

For sentences imposed between October 1, 1992, and October 1, 2017: Good conduct credits are awarded at the rate of 5 days per month if the inmate's term of confinement includes a sentence for a crime of violence (including murder) or distribution of controlled dangerous substances. Good conduct credits are awarded at the rate of 10 days per month for all other inmates (except for those inmates who are statutorily prohibited from earning diminution credits). Credits for work tasks and education may be awarded at the rate of up to 5 days per month. Special project credits may be awarded at the rate of up to 10 days per month. Such inmates may not be allowed a total deduction, including good conduct credits, of more than 20 days per month.

For sentences imposed on October 1, 2017, or later: Chapter 515 of 2016 increased the maximum possible deduction for diminution credits from 20 days to 30 days per calendar month, except for inmates serving a sentence in a State correctional facility for a crime of violence (including murder), specified sexual offenses, or specified volume or kingpin drug offenses. Also, except for that same group of inmates, the deduction for special selected work projects or other special programs, including recidivism reduction programming, increased from 10 to 20 days per calendar month. In addition, the maximum deduction for diminution credits increased for an individual who is serving a sentence in a local correctional facility (for a crime other than a crime of violence or specified volume drug offenses) from 5 to 10 days per month.

State Expenditures: Diminution credit calculations are handled by four regional field service units within the Department of Public Safety and Correctional Services (DPSCS). All adjustments to an inmate's release date go through a verification process. While some calculations are automated, all calculations must be verified by a minimum of two staff members. Staff members must then verify that the overall award of diminution credits from all sources does not exceed the statutory limit, and that the correct rate of good conduct credits has been awarded.

The bill modifies the time at which diminution credits for good conduct are calculated. Currently, diminution credits for good conduct are awarded *at intake* for each inmate. If an inmate is found guilty of an infraction within the correctional facility, the inmate is subject to the loss of good conduct credits, segregation, or a combination of segregation and the loss of good conduct credits. Under the bill, an inmate only receives a deduction for good conduct at the end of each month after demonstrating good conduct during the calendar month. An inmate found guilty of an infraction does not receive good conduct credits for the month or for the entire time that the inmate is on disciplinary segregation.

The combined average daily population for the 22 State correctional facilities and 3 Baltimore City detention facilities totaled 19,604 in 2017, 20,274 in 2016, and 20,602 in 2015. Between January 1, 2016, and February 11, 2018, there were 94,470 infractions with a guilty disposition. Assuming an average daily population in fiscal 2019 of 20,160, and based on information provided by DPSCS, a *minimum* of 30 additional contractual employees are needed to manually calculate and verify diminution credits for good conduct for all inmates at the end of each month. Thus, general fund expenditures increase by *at least* \$920,283 in fiscal 2019, which accounts for the bill's October 1, 2018 effective date. This estimate reflects the cost to hire 30 contractual employees. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses. It also includes \$10,000 in computer programming costs to upgrade the Offender Case Management System (OCMS).

Contractual Position(s)	30
Salaries and Fringe Benefits	\$749,520
Equipment	146,700
Operating Expenses	14,063
Computer Programming	<u>10,000</u>
Minimum FY 2019 State Expenditures	\$920,283

This estimate does not include any health insurance costs that could be incurred for specified contractual employees under the State’s implementation of the federal Patient Protection and Affordable Care Act.

While programming upgrades to OCMS may reduce the number of contractual employees needed beyond fiscal 2019, it is unclear how many of the initial 30 contractual employees need to be retained in the out years. Accordingly, the bill’s impact in future years is unknown.

Local Expenditures: Local expenditures increase to the extent that local correctional facilities require additional staff or computer programming upgrades to meet the bill’s requirements. Any such increase cannot be reliably estimated at this time and likely varies by jurisdiction. For example, Prince George’s County advises that the bill is not anticipated to have an impact on the Prince George’s County Department of Corrections.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Prince George’s County; cities of Bowie and Takoma Park; Department of Public Safety and Correctional Services; Department of Legislative Services

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