

Department of Legislative Services
Maryland General Assembly
2019 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 621

(Senator Carter, *et al.*)

Judicial Proceedings

Judiciary

Correctional Services - Diminution Credits - Education

This bill authorizes diminution credits to reduce the term of confinement of an inmate who successfully obtains (1) an intermediate high academic certificate; (2) no more than one certificate of completion of a technical or vocational training program, as specified; (3) a State High School Diploma by Examination; (4) a high school diploma; (5) an associate degree; or (6) a bachelor's degree. For inmates serving a sentence for a crime of violence, specified sexual offenses, or specified volume or kingpin drug offenses, the maximum possible deduction for diminution credits is 20 days per program completed; for all other inmates, the maximum is 30 days per program completed. The diminution credits allowed are in addition to any other deductions allowed, and the Commissioner of Correction must establish a uniform system of deductions and participation criteria allowed for the diminution credit. The bill applies prospectively and may not be applied or interpreted to have any effect on or application to any award of diminution credit before the bill's October 1, 2019 effective date.

Fiscal Summary

State Effect: Minimal decrease in incarceration expenditures for the Department of Public Safety and Correctional Services (DPSCS). Revenues are not affected.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law:

Diminution Credits

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 against a victim younger than 16;
- an inmate who is serving a sentence for first- or second-degree sexual offense, as the offenses existed before October 1, 2017, 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In addition, an inmate whose mandatory supervision release has been revoked may not be awarded any new diminution credits on the term of confinement for which the inmate was on mandatory supervision release.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 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, 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.

Section 14-101(a) of the Criminal Law Article defines a “crime of violence” as (1) abduction; (2) arson in the first degree; (3) kidnapping; (4) manslaughter, except involuntary manslaughter; (5) mayhem; (6) maiming; (7) murder; (8) rape; (9) robbery; (10) carjacking (including armed carjacking); (11) first- and second-degree sexual offenses; (12) use of a firearm in the commission of a felony or other crime of violence, except possession with intent to distribute a controlled dangerous substance; (13) child abuse in the first degree; (14) sexual abuse of a minor younger than age 13 under specified circumstances; (15) home invasion; (16) an attempt to commit crimes (1) through (15); (17) continuing course of certain sexual conduct with a child; (18) assault in the first degree; and (19) assault with intent to murder, rape, rob, or commit a sexual offense in the first or second degree.

State Expenditures: DPSCS advises that over the past three years, an average of 1,972 inmates have completed programs for which an inmate could be awarded diminution credits to reduce terms of confinement under the bill. However, DPSCS is unable to determine, for that group, (1) the number of inmates who are serving a sentence for a crime of violence, specified sexual offenses, or specified volume or kingpin drug offenses and thus, only eligible for the additional 20 credits per program completed or (2) the number of inmates who have completed more than one qualifying program. However, it is unlikely that a significant number of inmates who complete a qualifying program would be eligible for the additional diminution credits multiple times during a period of incarceration. Thus, it is also unlikely that a significant number of inmates receive the maximum of 20 to 30 diminution credits more than once. As a result, general fund expenditures likely decrease minimally.

Persons serving a sentence longer than 18 months are incarcerated in State correctional facilities. Currently, the average total cost per inmate, including overhead, is estimated at \$3,800 per month. Persons serving a sentence of one year or less in a jurisdiction other than

Baltimore City are sentenced to local detention facilities. For persons sentenced to a term of between 12 and 18 months, the sentencing judge has the discretion to order that the sentence be served at a local facility or a State correctional facility. The State provides assistance to the counties for locally sentenced inmates and for (1) inmates who are sentenced to and awaiting transfer to the State correctional system; (2) sentenced inmates confined in a local detention center between 12 and 18 months; and (3) inmates who have been sentenced to the custody of the State but are confined in or who receive reentry or other prerelease programming and services from a local facility.

The State does not pay for pretrial detention time in a local correctional facility. Persons sentenced in Baltimore City are generally incarcerated in State correctional facilities. The Baltimore Pretrial Complex, a State-operated facility, is used primarily for pretrial detentions.

Additional Information

Prior Introductions: HB 295 of 2018, a similar bill, received a hearing in the House Judiciary Committee but was withdrawn. Its cross file, SB 1113, received an unfavorable report from the Senate Judicial Proceedings Committee.

Cross File: HB 294 (Delegate Wilkins, *et al.*) - Judiciary.

Information Source(s): Department of Public Safety and Correctional Services;
Department of Legislative Services

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