Department of Legislative Services
Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
Third Reader

Senate Bill 260 (Chair, Judicial Proceedings Committee)(By Request - Departmental - Public Safety and Correctional Services)

Judicial Proceedings Judiciary

Division of Parole and Probation - Criteria for Earned Compliance Credit - Exception for Supervision Fees

---

This departmental bill alters the definition of "earned compliance credit" to exclude specified monthly supervision fees in order to allow an individual under the supervision of the Division of Parole and Probation (DPP) to accrue earned compliance credit to reduce the period of active supervision of the individual without the individual being current on the payment of the supervision fee.

Fiscal Summary

State Effect: By shortening the supervisory period for affected individuals, the bill likely reduces the caseload for DPP and the amount of outstanding supervision fees that would otherwise be transferred by DPP to the Central Collection Unit (CCU) within the Department of Budget and Management. While the bill could result in a decrease in general fund revenues from supervision fees that would otherwise be collected, any such decrease is speculative, as discussed below.

Local Effect: None.

Small Business Effect: The Department of Public Safety and Correctional Services (DPSCS) has determined that this bill has minimal or no impact on small business (attached). The Department of Legislative Services concurs with this assessment.

Analysis

Current Law:

Earned Compliance Credit: Chapters 564 and 565 of 2012 require DPSCS to (1) establish a program of earned compliance credits to create a reduction in the period of active supervision for a "supervised individual" and (2) develop policies and procedures for implementation.

With certain exceptions, a "supervised individual" means an individual placed on probation by a court or one who is serving a period of parole or mandatory release supervision after release from a correctional facility. "Supervised individual" does not include (1) a person incarcerated, on probation, or convicted in the State for a crime of violence; (2) a person incarcerated, on probation, or convicted in the State for a crime under Title 3, Subtitle 3 of the Criminal Law Article (sexual crimes); (3) a person incarcerated, on probation, or convicted in the State for a violation of § 2-503 (homicide by motor vehicle or vessel while under the influence of alcohol or alcohol *per se*), § 5-612 (controlled dangerous substances (CDS) – volume dealer), § 5-613 (CDS – drug kingpin), § 5-614 (CDS – importer), § 5-627 (CDS near school), or § 5-628 (CDS – use of minor) of the Criminal Law Article; (4) a person registered or eligible for registration under Title 11, Subtitle 7 of the Criminal Procedure Article (sex offender registration); (5) a person who was convicted in any other jurisdiction of a crime and the person's supervision was transferred to this State; or (6) a person who was convicted in this State of a crime and the person's supervision was transferred to another state. Chapter 515 of 2016, also known as the Justice Reinvestment Act, requires DPP to place specified individuals on probation, parole, or mandatory supervision on abatement when a combination of time served on probation, parole, or mandatory supervision and earned compliance credits satisfy the specified individual's active term of supervision.

An "earned compliance credit" is a 20-day reduction from the period of active supervision of the supervised individual for every month that a supervised individual meets specified conditions.

DPP must develop an automated application for the tracking and awarding of earned compliance credits. Further, a supervised individual who is placed on abatement is not required to regularly report to a parole or probation agent or pay a supervision fee. Twenty-five percent of the savings realized by DPSCS as a result of the application of earned compliance credits must revert to the department, and any remaining savings must be allocated to the Performance Incentive Grant Fund, as specified.

Supervision Fees: Unless a supervisee is exempted by the court or the Maryland Parole Commission (MPC), the court or MPC must assess a monthly fee of $50 as a condition of supervision for each supervisee to be paid to DPP. The fee is in addition to court costs and fines. DPP must pay all supervision fees collected into the general fund. The court or MPC may exempt a supervisee wholly or partly from the fee if:

- the supervisee has diligently attempted but has been unable to obtain employment that provides sufficient income for the supervisee to pay the fee;
- the supervisee is a student in a school, college, or university or is enrolled in a course of vocational or technical training designed to prepare the supervisee for gainful employment and the institution in which the supervisee is enrolled supplies certification of student status to the court or MPC, as applicable;
- the supervisee has a disability that limits possible employment, as determined by a physical or psychological examination that the court or MPC (as applicable) accepts or orders;
- the supervisee is responsible for the support of dependents and the payment of the fee constitutes an undue hardship on the supervisee; or
- other extenuating circumstances exist.

If a supervisee does not comply with the fee requirement, DPP must notify the court or MPC (as applicable). The court may revoke probation and MPC may revoke parole or mandatory supervision for failure to make the required payment.

Background: In April 2023, the U. S, Department of Justice issued a letter to state courts and justice agencies regarding the imposition and enforcement of fines and fees for adults and youth. The letter addresses common court-imposed fines and fees practices and cautions against those practices that may be unlawful, unfairly penalize individuals who are unable to pay, or otherwise have a discriminatory effect. The letter addresses the importance of conducting a meaningful ability-to-pay assessment before imposing adverse consequences for failure to pay, considering alternatives to fines and fees, guarding against excessive penalties, and ensuring due process protections, including the assistance of counsel when appropriate. DPSCS advises that the issues raised regarding fine imposition falling disproportionately on already overrepresented low-income communities and people of color, exacerbating existing inequities, are present in Maryland's data. According to DPSCS, individuals in the State experience extended periods of probation and parole solely based on the imposition of these financial obligations, without which their law-abiding behavior would have exempted them from the additional supervision and financial obligations. DPSCS reports that during fiscal 2023, earned compliance credits were held back from 17,181 supervised individuals due solely to "not current on all ordered payments." A total of approximately 1.2 million credits were withheld from these supervised individuals, with a potential average impact of two fewer months of supervision for each individual.

State Fiscal Effect: By reducing the period of active supervision for affected individuals, the bill is anticipated to result in a decrease in caseload for DPP, enabling DPP to focus on higher risk individuals. In addition, because affected individuals would no longer be on active supervision due to the bill's changes, they would no longer be subject to the monthly supervision fee. In theory, this reduces general fund revenues; however, as noted above, many of these individuals do not pay the fee in full (and therefore remain in supervision under current law), so any effect on general fund revenues is speculative.

Under the bill, a supervisee is still obligated to pay the supervision fees owed during the supervision period. Under current law and under the bill, when the supervision case is closed, the outstanding fees transfer to CCU for collection. Because the bill reduces the supervisory period for affected individuals, DPSCS anticipates that the amount of outstanding fees that would otherwise be transferred to CCU for collection decreases. The extent to which CCU would otherwise collect these outstanding fees is unknown. By reducing the amount of outstanding fees transferred to CCU, however, the bill likely results in a decrease in workload for CCU.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: HB 123 (Chair, Judiciary Committee)(By Request - Departmental - Public Safety and Correctional Services) - Judiciary.

Information Source(s): Department of Public Safety and Correctional Services; U.S. Department of Justice; Department of Legislative Services

Fiscal Note History: First Reader - February 23, 2024
js/lgc Third Reader - February 23, 2024

Analysis by: Shirleen M. E. Pilgrim

Direct Inquiries to:
(410) 946-5510
(301) 970-5510

ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Division of Parole and Probation - Criteria for Earned Compliance Credit - Exception for Supervision Fees

BILL NUMBER: SB0260

PREPARED BY: Jennifer Beskid

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

_X_ WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

OR

___ WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS