

Department of Legislative Services
Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 301
Judiciary

(Delegate Embry, *et al.*)

Correctional Services - Diminution of a Term of Confinement - First-Degree Rape and First-Degree Sexual Offense (Pava Marie LaPere Act)

This bill prohibits an incarcerated individual who is serving a sentence for first-degree rape or first-degree sexual offense as the offense existed before October 1, 2017 in a State correctional facility from earning diminution credits to reduce the incarcerated individual's term of confinement.

Fiscal Summary

State Effect: The bill does not materially affect State operations or finances in the near term. In the future, general fund expenditures increase, potentially significantly over time, for the Department of Public Safety and Correctional Services as individuals serve longer sentences under the bill, as discussed below. Revenues are not affected.

Local Effect: Offenders sentenced for violent crimes typically are not sentenced to local correctional facilities; therefore, local finances are not anticipated to be materially affected.

Small Business Effect: None.

Analysis

Current Law: Generally, incarcerated individuals sentenced to a State correctional facility are entitled to earn diminution of confinement credits to reduce the lengths of their incarcerations. Individuals sentenced for a "crime of violence" earn diminution credits at a lower rate than other incarcerated individuals. The following types of incarcerated individuals may not earn diminution credits:

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

Diminution credits are deducted from an incarcerated individual’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 additional information on diminution credits, see the [Maryland Diminution Credit System](#) report published by the Department of Legislative Services in December 2020.

State Expenditures: Although the bill does not materially affect State finances over the five-year period covered by this fiscal and policy note, general fund incarceration expenditures increase in the future as individuals serve longer sentences due to the bill’s changes.

Persons serving a sentence longer than 18 months are incarcerated in State correctional facilities. Currently, the average total cost per incarcerated individual, including overhead, is estimated at \$5,110 per month. Excluding overhead, the average cost of housing a new State incarcerated individual (including health care costs) is about \$1,244 per month. Excluding all health care (which is a fixed cost under the current contract), the average variable costs total \$336 per month.

During fiscal 2023, the Division of Correction received 11 incarcerated individuals convicted of first-degree rape or first-degree sexual offense, as the offense existed before October 1, 2017. Three were sentenced to life, 8 were sentenced to fixed-length terms (with an average term of 24 years), and none were sentenced to life without parole. *For illustrative purposes only*, for each individual that remains incarcerated for five additional years as a result of the bill, based on the current average variable costs of \$336 per month (excluding health care), State incarceration costs increase by approximately \$20,160.

Although a reliable estimate of the total increase in incarceration costs cannot be made, the impact could eventually be significant considering the cumulative impact over time.

Additional Information

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

Designated Cross File: None.

Information Source(s): Baltimore, Frederick, and Montgomery counties; Department of Public Safety and Correctional Services; Department of Legislative Services

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