

Department of Legislative Services
Maryland General Assembly
2000 Session

FISCAL NOTE

House Bill 380 (Delegate Marriott, *et al.*)

Judiciary

Criminal Procedure - Review of Mandatory Minimum Sentences - Retroactive Effect

This bill allows a person serving a term of confinement that includes a mandatory minimum sentence imposed before July 1, 1999, to apply for and receive one review of the mandatory minimum sentence. Such an application must be made between October 1, 2000, and September 30, 2001.

The provisions of this bill are terminated after September 30, 2001.

Fiscal Summary

State Effect: Assuming all eligible inmates seek a sentence review, general fund expenditures could increase by as much as \$754,600 during FY 2001 and a portion of FY 2002 resulting from additional overtime costs for the Division of Parole and Probation. Expenditures could also increase or decrease by minimal amounts due to increases or decreases in sentences as provided by the review process and the accompanying judicial decisions. Revenues would not be affected.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: Judicial review panels have the authority, with a hearing, to order a different sentence to be imposed or served by a convicted inmate. A ruling by a panel may increase, decrease, or suspend a sentence (in whole or in part) with or without probation or conditions. A ruling may also allow a current sentence to stand without a hearing. However, a mandatory minimum sentence may not be decreased unless the panel's decision is unanimous. Life imprisonment sentences and death sentences may not be increased. A review panel has the right to require the Division of Parole and Probation to investigate, report, and make recommendations on the application for review.

Background: The authority of a judicial review panel to order a different sentence, including a decrease, in a mandatory minimum sentence was granted under Chapter 648 of 1999.

State Expenditures: The Division of Parole and Probation estimates that there could be as many as 2,000 current inmates who were given a mandatory minimum sentence for various serious offenses prior to July 1, 1999. It is estimated that 80%-100% of such persons will file for a review of that sentence during the limited one-year window of opportunity provided by this bill. It is assumed that all such requests will have a judicial request for investigation.

There are 58 agents of the division who would be assigned to perform these investigations, at approximately 28-34 additional investigations per agent. The division believes that such an additional workload would require approximately 16 hours of overtime per pay period or 416 overtime hours per year. Accordingly, at an overtime pay rate of \$25.02 per hour, all 58 agents would accrue \$754,604 in overtime costs for the division during a one-year period that stretches over fiscal 2001 and 2002 (from October 1, 2001, to September 30, 2002) if 100% of the estimated 2,000 inmates who would qualify for sentence review under this bill did so, and if all agents chose overtime pay rather than compensatory leave time.

However, it should be noted that if some of the division's 58 agents chose to receive accruable compensatory leave time rather than actual overtime payments, this cost to the agency would be reduced. In addition, these costs could also be reduced if less than 100% of inmates eligible for review sought such review. For instance, if only 80% of eligible inmates sought review, the overtime costs to the division (assuming that all agents would choose overtime pay) over this fiscal 2001 and 2002 period would be \$603,682.

In any event, it is assumed that 75% of any such costs to the division would be incurred in fiscal 2001 (from October 1, 2000, to June 30, 2001) and the remaining 25% would occur in fiscal 2002 (from July 1, 2001, to September 30, 2001).

General fund expenditures could also increase or decrease minimally as a result of changes to

inmates sentences as provided by the review panels due to inmates having their sentences lengthened or shortened. The number of people who would have their sentence changed cannot be reliably predicted, but is assumed to be small.

The average total cost per inmate at a Division of Correction (DOC) facility, including overhead, is estimated at \$1,700 per month. However, the average variable cost of housing a DOC inmate (food, medical care, etc.), excluding overhead, is \$260 per month.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Public Safety and Correctional Services (Division of Parole and Probation, Division of Correction), Department of Legislative Services

Fiscal Note History: First Reader - February 28, 2000
cm/jr

Analysis by: Guy G. Cherry

Direct Inquiries to:
John Rixey, Coordinating Analyst
(410) 946-5510
(301) 970-5510