

Department of Legislative Services
Maryland General Assembly
2001 Session

FISCAL NOTE

Senate Bill 517

(Senator Ferguson, *et al.*)

Judicial Proceedings

Truth in Sentencing - Repeat Violent Offenders

This bill prohibits a person who is convicted of a second or subsequent crime of violence from being eligible for parole. The bill also prohibits applying diminution credits to an inmate's term of confinement if: (1) the inmate has been previously confined for a crime of violence; and (2) the term of confinement includes a sentence for a second or subsequent crime of violence.

The bill is applied prospectively only, and may not be applied to the sentencing of a person or the allowance of diminution credits to an inmate whose second or subsequent crime of violence was committed before October 1, 2001.

Fiscal Summary

State Effect: Potential significant increase in general fund expenditures in the long run due to the bill's changes to incarceration sentencing provisions for repeat violent offenders. Revenues would not be affected.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: A "crime of violence" means abduction; arson in the first degree; kidnapping; manslaughter, except involuntary manslaughter; mayhem and maiming; murder; rape; robbery; carjacking or armed carjacking; sexual offense in the first degree;

sexual offense in the second degree; use of a handgun in the commission of a felony or other crime of violence; an attempt to commit any of the aforesaid offenses; assault in the first degree; and assault with intent to murder, assault with intent to rape, assault with intent to rob, assault with intent to commit a sexual offense in the first degree, and assault with intent to commit a sexual offense in the second degree.

Except for inmates serving life sentences, an inmate who has been sentenced to the Division of Correction after being convicted of a violent crime (i.e., a crime of violence or burglary) on or after October 1, 1994, now is eligible for parole under one of the following two formulas:

- (1) If the inmate has been convicted of a violent crime, the inmate is not eligible for parole until the inmate has served the greater of: (i) one-half of the inmate's aggregate sentence for violent crimes; or (ii) one-fourth of the inmate's total aggregate sentence.
- (2) If the inmate has been convicted of a violent crime and has been sentenced to more than one term of imprisonment, including a term during which the inmate is eligible for parole and a term during which the inmate is not eligible for parole, the inmate is not eligible for parole until the inmate has served the greater of: (i) one-half of the inmate's aggregate sentence for violent crimes; (ii) one-fourth of the inmate's total aggregate sentence; or (iii) a period equal to the term during which the inmate is not eligible for parole.

If an inmate's term of confinement includes a consecutive or concurrent sentence for a crime of violence, the deduction with certain exceptions is calculated at the rate of five days for each calendar month of the inmate's term of confinement.

An inmate who has been sentenced to life imprisonment is not eligible for parole consideration until the inmate has served 15 years or the equivalent of 15 years considering the allowances for diminution of the inmate's term of confinement. An inmate who has been sentenced to life imprisonment for murder in the first degree is not eligible for parole consideration until the inmate has served 25 years or the equivalent of 25 years considering the allowances for diminution of the inmate's term.

Background: The use of diminution credits to reduce an inmate's term of incarceration is a means of recognizing an inmate's good behavior. Inmates are allowed a deduction in advance from the inmate's term of confinement. If an inmate violates a rule of discipline, however, diminution credits may be revoked.

State Expenditures: The Division of Correction had an intake of about 2,000 inmates in fiscal 2000 who had previous convictions for violent crimes. If that year is typical, about

2,000 new inmates annually would be ineligible for diminution credits or parole. Accordingly, general fund expenditures could increase significantly as a result of the bill's elimination of parole and diminution credits for repeat violent offenders due to people being committed to DOC facilities for longer periods of time. While repeat violent offenders are not generally awarded parole, they can and do earn diminution credits toward earlier releases. An average offender serves about 70% of a sentence. Under this bill, repeat violent offenders would serve 100% of their sentence. However, the full extent of the bill's effect would not be felt for an indeterminate number of years in the future -- likely seven to ten years hence.

Accordingly, this bill could increase the average daily population in DOC facilities to the extent that additional beds, personnel, infrastructure improvements, or a new prison facility will be necessary. Based on a cost of approximately \$119,700 per bed, the cost of building a new medium security 1,300-bed prison facility is currently estimated at \$155.6 million.

Persons serving a sentence longer than one year are incarcerated in DOC facilities. Currently, the average total cost per inmate, including overhead, is estimated at \$1,700 per month. Excluding overhead, the average cost of housing a new DOC inmate (including medical care and variable costs) is \$288 per month.

Additional Information

Prior Introductions: None.

Cross File: None.

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

Fiscal Note History: First Reader – March 6, 2001
ncs/cer

Analysis by: Guy G. Cherry

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