

Department of Legislative Services
Maryland General Assembly
2002 Session

FISCAL NOTE

House Bill 682
Judiciary

(Delegate Doory)

Public Safety - Mandatory Supervision - Credit for Time on Release

This bill prohibits an inmate from receiving diminution of sentence credit for time between release on mandatory supervision and a revocation of mandatory supervision if: (1) the inmate was serving a sentence for a violent crime when mandatory supervision was revoked; and (2) the revocation was due to a finding that the inmate was convicted of a violent crime while on mandatory supervision.

The bill's provisions are required to be applied prospectively only.

Fiscal Summary

State Effect: Potential significant increase in general fund expenditures beginning in FY 2010 due to the bill's changes in diminution credit earning potential for inmates on mandatory release when the release has been revoked due to the commission of a violent crime. Revenues would not be affected.

Local Effect: None. Inmates serving sentences for violent crimes do not generally serve those sentences at local detention facilities.

Small Business Effect: None.

Analysis

Current Law: The parole commissioner presiding at an individual's mandatory supervision revocation hearing may revoke any or all of the diminution credits previously earned by the individual on the individual's term of confinement. An inmate may not be

awarded any new diminution credits after the inmate's mandatory supervision has been revoked.

In the case of *Secretary of Public Safety v. Hutchinson*, 359 Md. 320, 753 A.2d 1024 (2000), the Court of Appeals held that inmates who receive a new sentence for conduct committed while on mandatory supervision should receive, and must be given, good conduct credits on that sentence; however, those credits apply only to the new sentence. Even if the inmate would be otherwise entitled to mandatory supervision release on the new sentence prior to expiration of the old sentence, the prisoner may not be released until having served the full extent of the old sentence.

Under certain provisions of the Correctional Service Article, an individual on mandatory supervision remains in legal custody until the expiration of the individual's full term. An individual on mandatory supervision is subject to all laws, rules, regulations, and conditions that apply to parolees, as well as any special conditions established by a commissioner.

If an inmate is convicted and sentenced to imprisonment for a crime committed while on parole and the parole is revoked, diminution credits that were awarded before the inmate's release on parole may not be applied toward the inmate's term of confinement on return to the division.

A sentence imposed consecutive to a term of confinement for which the defendant is on parole is required to begin: (1) if, at the time of sentencing, parole is revoked, on expiration of the original term of confinement; or (2) if parole is not revoked, on the date that the consecutive sentence was imposed.

Background: This bill deals with so-called "street time," in which a person who commits a violation while on mandatory release is given credit by the parole commissioner for the time served while on release. There is the possibility that, given such credit, the person would be returned to prison on a revocation of release for having committed a violation with more credits than at release. Under current law, parolees may not receive street time if they are on parole for a violent crime and the parole was revoked for committing a violent crime. This bill will apply that same standard for persons on mandatory supervision.

Mandatory supervision is a nondiscretionary release from prison required by law after a criminal offender has served his or her sentence less diminution of confinement credits earned. Parole, on the other hand, is a discretionary, conditional release from criminal imprisonment that may be granted by the Maryland Parole Commission.

For Division of Correction (DOC) inmates whose terms of confinement include consecutive or concurrent sentences for a crime of violence or a crime involving a controlled dangerous substance as defined in the law, the deduction in the sentence for good conduct is calculated at five days per calendar month. For all other inmates the deduction is calculated at ten days per calendar month. An inmate may also receive deductions calculated at five days per calendar month for work tasks and education and ten days per calendar month for special projects; however, the total deduction may not exceed 20 days per calendar month.

An inmate in a local correctional facility may receive deductions of five days per calendar month for: good conduct; industrial, agricultural, or administrative tasks; educational and training courses; work projects; and special programs. 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 term of confinement. If an inmate violates a rule of discipline, however, diminution credits may be revoked.

This bill arises, in part, out of a request for guidance from the Department of Public Safety and Correctional Services (DPSCS) in response to concerns raised by the Correctional Services Article Review Committee. The committee indicated that the General Assembly may wish to expressly state that an inmate may not be awarded any diminution credits "on the sentence or sentences for which the individual was awarded diminution credits prior to release on mandatory supervision," and may wish to consider whether the current law provision relating to the effect of a parole violation on diminution credits "was intended to apply to inmates released to mandatory supervision who are convicted and sentenced to imprisonment for a crime while on parole and the parole is revoked."

The request for guidance was formally made in the department's *Report to the General Assembly on Diminution of Confinement Credits and Mandatory Supervision Releases* (January 2002).

State Fiscal Effect: In fiscal 2001 DOC had an intake of between 100 to 150 inmates who had a revocation of mandatory release under the provisions of this bill. DOC does not track data related to street time credits earned. Any additional need for bed space or other operating expense needs would not occur for six to seven years. Without any direct experience under the bill, its effects cannot be reliably quantified.

If the number of persons affected by this bill is small, DOC should be able to anticipate and plan for the need of additional resources through the normal State budgetary processes. However, should this bill result in significantly more people being committed

to DOC facilities for longer periods of time, 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 \$101,000 per bed, the cost of building a new medium security 1,300-bed prison facility is currently estimated at \$131.3 million.

Additional Information

Prior Introductions: None.

Cross File: None.

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