

**Department of Legislative Services**  
Maryland General Assembly  
2002 Session

**FISCAL NOTE**

House Bill 814

(Delegates Vallario and Dembrow)

(State Commission on Criminal Sentencing Policy)

Judiciary

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**Public Safety - Parole and Mandatory Supervision - Diminution Credits and Sentences**

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This bill alters provisions applicable to diminution credits for individuals who commit crimes while on mandatory supervision release for a prior unrelated offense. The bill also provides that a sentence imposed consecutive to a term of confinement for which the individual is on parole begins on expiration of the original term of confinement if parole is subsequently revoked.

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**Fiscal Summary**

**State Effect:** Potential significant increase in expenditures for additional bed space beginning in FY 2005.

**Local Effect:** None. The bill's provisions are not expected to affect incarceration costs for local detention facilities.

**Small Business Effect:** None.

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**Analysis**

**Bill Summary:** Specifically, this bill provides that if an inmate is imprisoned for a crime committed while on mandatory supervision and the mandatory supervision is revoked, diminution credits earned before release on mandatory supervision may not be applied to the subsequent term of confinement. The bill eliminates the discretion of a parole commissioner presiding at a mandatory supervision revocation hearing to decide upon the

extent of diminution credit revocation under such circumstances. The bill prohibits the awarding of any new diminution credits to an inmate whose mandatory supervision release is revoked on the sentence for which the individual was awarded credits prior to release.

The bill also provides that a sentence imposed consecutive to a term of confinement for which the defendant is on parole must begin upon expiration of the original term of confinement if the parole is subsequently revoked.

The bill is applied prospectively to any sentence for a crime committed on or after October 1, 2002.

**Current Law:** 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.

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.

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:** 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 Expenditures:** For the next several years, and perhaps the foreseeable future, general fund expenditures could increase minimally as a result of the bill's changes to provisions relating to diminution credits due to people being committed to DOC facilities for longer periods of time. Currently, the average total cost per inmate including overhead is estimated at \$1,850 per month. This bill alone, however, should not create any immediate need for additional beds, personnel, or facilities. Excluding overhead, the average cost of housing a new DOC inmate (including medical care and variable costs) is \$300 per month.

DPSCS advises that it would closely monitor the actual effects of this bill out of a concern that eventually this bill's provisions could lead to a bed space shortfall even with the 256 additional maximum security beds (the North Branch facility) slated for availability in September 2002. Accordingly, at some time in the future (at least two to three years beyond fiscal 2003), 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.

Those costs would be attributable only to the bill's changes to provisions making the effect of a mandatory supervision violation on diminution credits the same as the effect of a parole violation and the bill's changes to provisions relating to consecutive and concurrent sentences. However, such a capital expenditure would only be necessary if departmental monitoring discovers and predicts such an actual need. In that case, normal budgeting processes should be able to plan for and handle that eventuality.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** SB 433 (Senator Kelley) (State Commission on Criminal Sentencing Policy) – Judicial Proceedings.

**Information Source(s):** Department of Public Safety and Correctional Services, Commission on Criminal Sentencing Policy, Department of Legislative Services

**Fiscal Note History:** First Reader - March 1, 2002  
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Analysis by: Guy G. Cherry

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