

Department of Legislative Services
Maryland General Assembly
2002 Session

FISCAL NOTE
Revised

House Bill 854

(Delegate Hecht, *et al.*)

Judiciary

Judicial Proceedings

Public Safety - Mandatory Supervision - Diminution Credits and Sentences

This bill requires that if an inmate is sentenced to imprisonment for a violent crime committed while on mandatory supervision, and the mandatory supervision is then revoked, the inmate will automatically lose all diminution credits on the prior sentence. The bill abolishes the discretion of the parole commission to revoke any or all of the diminution credits previously earned.

The bill also requires the Secretary of Public Safety and Correctional Services and the Chairman of the Maryland Parole Commission to establish a workgroup to study and make recommendations on issues relating to diminution credits, sentences, and mandatory supervision. A report from the workgroup is due by December 1, 2002.

The bill is effective June 1, 2002 and is applied prospectively to any sentence for a crime committed while on mandatory supervision on or after that date.

Fiscal Summary

State Effect: Potential significant increase in expenditures for additional inmate bed space beginning in FY 2005. Workgroup and reporting responsibilities could be handled with the existing budgeted resources of the Department of Public Safety and Correctional Services.

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

Small Business Effect: None.

Analysis

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 of Correction.

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 An inmate may not be awarded any new diminution credits after the inmate's mandatory supervision has been revoked.

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 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. Specifically, 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." 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).

Bill Summary: The bill specifies that after mandatory supervision has been revoked, the inmate may not be awarded any new diminution credits on the term of confinement for which the inmate was on mandatory supervision.

The bill expresses the intent of the General Assembly that the bill's provisions must be construed to be consistent with the *Hutchinson* decision, and that if an inmate is convicted and sentenced for a crime committed while on mandatory supervision, any diminution credits earned prior to release are permanently revoked and may not be applied to any previous, current, or future sentence or confinement term.

The bill requires the Secretary of Public Safety and Correctional Services and the Chairman of the Maryland Parole Commission to establish a workgroup to study and make recommendations concerning the calculation of diminution credits for a new sentence for a crime committed by a person while on mandatory supervision release. A report of the workgroup's findings and recommendations is required by November 1, 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.

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.

Additional Information

Prior Introductions: None.

Cross File: None. However, SB 747 as enrolled is identical.

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

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