

Department of Legislative Services
 Maryland General Assembly
 2003 Session

FISCAL AND POLICY NOTE

Senate Bill 584 (Senator McFadden)
 (By Request – Baltimore City Administration)

Judicial Proceedings

Correctional Services - Baltimore City - Front-End Work Release Program

This bill requires the Commissioner of Pretrial Detention and Services to establish and administer a front-end work release program in Baltimore City for eligible participants at the beginning of their commitment to the Baltimore City Detention Center (BCDC). The bill requires the commissioner to direct resources to establish 35 beds for the program and to establish eligibility criteria for participation in the program. As a part of the program, the commissioner must establish a front-end work release plan for each program participant.

Fiscal Summary

State Effect: General fund expenditures increase by \$823,600 in FY 2004, primarily from personnel costs directly attributable to the work release program. Out-year costs reflect annualization and inflation. FY 2004 general fund revenues are estimated at \$124,600. Out-year income reflects annualization.

(in dollars)	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
GF Revenue	\$124,600	\$191,600	\$191,600	\$191,600	\$191,600
GF Expenditure	823,600	952,700	1,010,700	1,086,400	1,142,600
Net Effect	(\$699,000)	(\$761,100)	(\$819,100)	(\$894,800)	(\$951,000)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: The bill authorizes the commissioner to recommend to a court that certain individuals participate in the program and allows a court to authorize program participation. The bill provides for the suspension or removal of program participants. The commissioner is required to collect participants' total earnings, less payroll deductions. From the collected earnings, the commissioner may make certain payments, including actual program costs to BCDC, court-ordered dependency payments, and, if ordered by the court, reimbursement to the State for court-appointed counsel and/or services of the public defender. Any balances in a participant's account must be paid to the person upon release. The bill specifies that a program participant employed in the community is not an agent or employee of Baltimore City, the commissioner, any judicial officer, or any other public officer of the city or the State.

Current Law: The Commissioner of Pretrial Detention Services, in Baltimore City only, may allow an inmate of BCDC, during the period of custody, to continue regular employment; obtain new employment; participate in training, rehabilitation, or other special program; or attend an educational institution. Such participation may only occur if it is: (1) approved by the judge ordering confinement or, if that judge is unable to act, by another judge of the committing court; and (2) in accordance with available programs.

An inmate who is authorized to participate in such a program must be held in custody between program hours or periods. The commissioner may allow an authorized program participant to be held in custody through home detention by the use of electronic monitoring devices. Subject to the availability of funds, the commissioner may contract for halfway houses or other suitable housing facilities or electronic monitoring devices for inmates authorized to participate in a program.

An inmate who is employed under a work release program must surrender to the commissioner his or her total earnings under the program, less required payroll deductions. From the inmate's net earnings, the commissioner must deduct in the following order of priority: (1) an amount up to one-third of the inmate's net earnings for the cost to the State of providing food, lodging, electronic monitoring devices, and clothing; (2) the inmate's actual and necessary food, travel, and other expenses when released from actual custody under the program; (3) the amount, if any, of court-ordered dependency payments (which must be paid out by the commissioner, as directed); and (4) the amount for court-ordered restitution.

The commissioner must credit to the inmate's account any remaining balance, and pay the balance in the inmate's account to the inmate on release. If any part of the inmate's final earnings under a work release program are required to satisfy the deductions cited

above, the balance of the final earnings must be forwarded to the inmate within 15 days after the release date from BCDC.

Background: BCDC is a State-operated detention facility used primarily to house pretrial inmates. It is operated by the Division of Pretrial Detention and Services, and not by the Division of Correction (DOC). Except for a few post-conviction inmates held temporarily from time to time at BCDC, generally the division does not now incarcerate post-conviction inmates, while DOC is barred from housing any pretrial inmates. Currently, no work release programs are operated by the Commissioner of Pretrial Detention and Services.

Baltimore City does not operate a local detention center (all incarceration terms arising from convictions in the city are served in State facilities). Most jurisdictions in the State have work release programs; Baltimore City and Prince George's County do not. However, all such programs in the State are post-conviction, with the earliest work release order occurring at sentencing. For example, inmates in Baltimore County are eligible for program participation if the inmate: (1) is within six months or less of a release date; (2) has been sentenced to the correctional facility without pending charges; (3) had no disciplinary infractions for possession of contraband; and (4) had no positive urinalysis test results during present incarceration.

BCDC has an operating capacity of 2,611 beds. Its average daily population (ADP) is 2,611. The Governor's fiscal 2004 budget allowance provides for a total of 803 positions, including custodial positions, and 16.7 contractual positions. It has a ratio of ADP to employees of 3.49:1, and a ratio of ADP to custodial positions of 4.22:1. The monthly per capita cost for housing an inmate is estimated at \$1,990 for fiscal 2004. The Governor's fiscal 2004 budget allowance provides for a total budget allotment of \$64,458,325 to the division to operate BCDC.

The division also operates the Central Booking and Intake Facility in Baltimore City, which processes all individuals arrested within the city for violations of State or city laws. Central Booking has an operating capacity of 676 beds. Its ADP is 676. The Governor's fiscal 2004 budget allowance provides for a total of 530 positions, including custodial positions, and 17.5 contractual positions. It has a ratio of ADP to employees of 1.16:1, and a ratio of ADP to custodial positions of 1.59:1. The monthly per capita cost for housing an inmate is estimated at \$2,761 for fiscal 2004. The Governor's fiscal 2004 budget allowance provides for a total budget allotment of \$33,681,931 to the division to operate Central Booking.

State Revenues: Based on actual earnings statements from jurisdictions currently operating a work release program, the division estimates that a fee of \$15 per day would

be charged to program participants to help defray program costs associated with food, travel, and other expenses. Accordingly, assuming full program capacity annually, this bill would provide increased general fund revenues of \$124,556 in fiscal 2004, which accounts for the bill's October 1, 2003 effective date. Out-year revenues would total \$191,625, annually.

State Expenditures: The initial inherent problem in assessing the fiscal impact of this bill derives from the question of where such a 35-bed facility would be located. Assuming that the acquisition of a new building would be unlikely, the division may be forced to use one of the two existing "contingency" properties now held by the division, but not now used (except for emergency overcrowding): (1) Graves Street, with a capacity of about 100 beds; and (2) O'Brien House, with a capacity between 35 and 45 depending on configurations of actual use. Maintaining the two contingency properties allows the division to handle emergency populations of both sexes, simultaneously.

In any case, if housing and transporting inmates in the work release program are not issues (including any concerns relating to separate sex facilities), general fund expenditures could increase by an estimated \$823,642 in fiscal 2004, which accounts for the bill's October 1, 2003 effective date. This estimate reflects the cost of hiring 11 correctional officers, 5 resident counselors, 1 resident counselor supervisor, 2 correctional caseworkers, and 1 fiscal clerk to start up, operate, and maintain the 35-bed dedicated work release facility. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses, including renovation and maintenance costs for Graves Street, O'Brien House, or some other usable property.

Salaries and Fringe Benefits	\$605,697
Building Renovations and Maintenance	35,000
Operating Expenses	<u>182,945</u>
Total FY 2004 State Expenditures	\$823,642

Future year expenditures reflect: (1) full salaries with 4.5% annual increases and 3% employee turnover; and (2) 1% annual increases in ongoing operating expenses.

Additional Comments: It is also noted that, while the bill requires the commissioner to establish and administer a 35-bed work release program for eligible participants at BCDC, it also allows a court to authorize an individual to participate in the program at: (1) sentencing; (2) the time of commitment to BCDC; and (3) at any time during commitment. After conviction, by law, individuals are not sentenced to confinement at BCDC, but rather to DOC. Any individuals serving their sentence at BCDC are there as

a temporary “courtesy” to DOC, a separate division, but were never remanded there by the sentencing court.

Additional Information

Prior Introductions: None.

Cross File: HB 555 (Delegate Marriott) – Judiciary.

Information Source(s): Baltimore City, Department of Public Safety and Correctional Services (Division of Pretrial Detention and Services), Department of Legislative Services

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ncs/jr

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