

Department of Legislative Services  
Maryland General Assembly  
2003 Session

FISCAL AND POLICY NOTE

House Bill 235 (Delegate Frank, *et al.*)  
Judiciary

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Local Correctional Facilities - Inmate Transfers

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This bill authorizes the sheriff of a county or a governing body of a county or municipal corporation that operates a local correctional facility to enter into a memorandum of understanding with another sheriff or political subdivision that operates a correctional facility to provide for the transfer of inmates from one facility to another.

The bill excludes Baltimore County from the authorization.

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Fiscal Summary

**State Effect:** None. Any effect on State per diem reimbursements of inmate costs in local detention centers is not expected to be measurable.

**Local Effect:** Minimal. This bill is not expected to significantly affect local revenues or expenditures relating to correctional operations.

**Small Business Effect:** None.

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Analysis

**Current Law:** A judge may sentence an individual to a local correctional facility if: (1) the sentence is for a period of not more than 18 months; and (2) the judge imposing the sentence is in a jurisdiction that is a party to the operation and maintenance of the local correctional facility to which the individual is sentenced. A person sentenced to a term of 12 months or less is required to be sentenced to a local correctional facility.

**Background:** In 2002, a similar bill (SB 11) passed both houses of the General Assembly, but was vetoed by the Governor on the ground that its provisions were too broad. The veto message said, in part, that the bill “provides no guidance to local facilities as to what the memorandum of understanding should cover, nor does it place any restrictions on the authority of a facility to transfer an inmate to another facility.” The veto message also noted that current law provisions involving inmate transfers and the Division of Correction provide conditions, procedures, or restrictions.

A similar bill, without the exclusion of Baltimore County, has been introduced in 2003 as SB 46 and referred to the Senate Judicial Proceedings Committee.

**Local Fiscal Effect:** Persons serving a sentence of up to 18 months in a jurisdiction other than Baltimore City are sentenced to local detention facilities. Local per diem operating costs of local detention facilities are expected to range from \$20 to \$84 per inmate in fiscal 2004. The State reimburses counties for part of their incarceration costs, on a per diem basis, after the person has served 90 days. State per diem reimbursements for fiscal 2004 are estimated to range from \$14 to \$59 per inmate depending upon the jurisdiction.

There are no known agreements allowing such cross-jurisdictional transfers. Any fiscal impact resulting from this bill depends upon the terms of future agreements. However, it is expected that this bill will have little if any impact on local correctional operations or costs, because: (1) it is assumed that any such agreement will allow for compensation for the receiving jurisdiction from the jurisdiction of sentencing in an amount approximating actual per diem costs; and (2) it is also assumed that any such agreement will provide for acceptance on a space-available basis only. While per diem costs vary by jurisdiction, it is assumed that jurisdictions will tend not to enter into such agreements if they would result in significant net losses to either of the participating jurisdictions. It is also assumed that such memoranda will be used primarily to deal with situations involving temporary conditions of overcrowding at local correctional facilities.

Wicomico County advises that such transfers are already being effectuated between various local detention centers in the State under informal mutual aid agreements without a significant fiscal impact.

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### **Additional Information**

**Prior Introductions:** Similar bills were introduced in the 2001 and 2002 sessions. In 2002, SB 11 passed both houses, but was vetoed by the Governor (see Background

section of this fiscal note). In 2001, SB 413 passed the Senate, but received an unfavorable report from the House Judiciary Committee.

**Cross File:** None.

**Information Source(s):** Department of Public Safety and Correctional Services, Montgomery County, Talbot County, Wicomico County, Baltimore City, Department of Legislative Services

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