Department of Legislative Services

Maryland General Assembly
2003 Session

FISCAL AND POLICY NOTE

House Bill 706 (Delegate Vallario, *et al.*)
Judiciary Judicial Proceedings

Public Safety - Mandatory Supervision - Diminution Credits and Sentences

This bill broadens the prohibition against awarding previously earned diminution credits to an inmate whose mandatory supervision release is revoked for the commission of a crime while on release by prohibiting the application of any diminution credits that may have previously been earned by the inmate prior to his or her release, regardless of whether the crime was violent or not.

Fiscal Summary

State Effect: Potential significant increase in expenditures for additional inmate bed space beginning in FY 2005. Revenues would not be affected.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: 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, and any applicable special conditions.

If an inmate is convicted and sentenced to imprisonment for a violent crime committed while on mandatory supervision and the mandatory supervision is revoked, diminution credits that were earned before the inmate's release on mandatory supervision may not be applied toward the inmate's term of confinement on return to the Division of Correction (DOC).

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 earned before the inmate's release on parole may not be applied toward the inmate's term of confinement on return to DOC.

Background: Chapter 485 of 2002 required 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 legislation abolished the discretion of the Parole Commission to revoke any or all of the diminution credits previously earned. The provisions were effective June 1, 2002 and applied prospectively to any sentence for a crime committee while on mandatory supervision on or after that date.

In addition, Chapter 485 required 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 was released in December 2002. This bill results from those recommendations.

State Expenditures: DOC currently receives about 700 inmates per year who have had their mandatory supervision release revoked for the commission of a new, nonviolent crime. On average, these persons have two years remaining to serve on their original sentence, excluding any credit that may have been given at the revocation hearing for street time or previously earned diminution credits. Two years remaining on their original sentence also means that that is the amount of diminution credit earned leading to their mandatory release.

Under current law, it is within the discretion of the Parole Commission to revoke any or all of the previously earned diminution credits earned on the inmate's term of confinement, except when the violation leading to the revocation is for a new crime of violence. The average number of diminution credits revoked or left intact by the Parole Commission for such inmates is unknown. For purposes of illustration, if the 700 persons discussed above had half of their remaining credits revoked, on average, they would still have one year of credits remaining. Thus, this bill would increase their stay with DOC by one year (equal to the 12 months in diminution credit they now retain).

Accordingly, general fund expenditures could increase as a result of the bill's provisions due to more people being committed to DOC facilities for longer periods of time.

Persons serving a sentence longer than 18 months are incarcerated in DOC facilities. Currently, the average total cost per inmate, including overhead, is estimated at $1,850 per month. Excluding overhead, the average cost of housing a new DOC inmate (including medical care and variable costs) is $350 per month. Excluding medical care, the average variable costs total $120 per month. Assuming the variable inmate costs of $120 per month, and assuming that 700 inmates per year affected by this bill is typical and using the scenario of half of previously earned credits being retained under current practice, State costs could increase by $84,000 per month, and by $1,008,000 annually. If the average number of credits now revoked by the Parole Commission is more than one year, these costs would be higher. Such an impact would not be experienced until fiscal 2005.

For the next several years, general fund expenditures would continue to increase. At some time in the future, 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: SB 365 (Senator Miller) – Judicial Proceedings.

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

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Analysis by: Guy G. Cherry

Direct Inquiries to:
(410) 946-5510
(301) 970-5510