

Department of Legislative Services  
Maryland General Assembly  
2004 Session

FISCAL AND POLICY NOTE

House Bill 1220

(Delegate Vallario)

Judiciary

Judicial Proceedings

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Correctional Services - Concurrent and Consecutive Sentences - Offenders on Parole

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This bill repeals a requirement that a new sentence run consecutively to the time to be served on the original term when an individual is convicted of a crime while on parole. A court is required to determine if such a new sentence is to run concurrently or consecutively, as provided under a specified Maryland Rule. Under such circumstances, the bill requires that, if a new sentence is to run consecutively, the new sentence must begin: (1) if at the time of sentencing parole is revoked, on expiration of the original confinement term; or (2) if parole is not revoked, on the date that the consecutive sentence was imposed. In addition, the bill provides that if such a new sentence is to run consecutively, the reimposition of the original sentence on parole must begin as provided under a specified current law provision governing a revocation of parole.

The bill's provisions are applied prospectively only.

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Fiscal Summary

**State Effect:** Potential significant increase in expenditures for additional inmate bed space beginning in FY 2008. Revenues would not be affected.

**Local Effect:** None.

**Small Business Effect:** None.

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## **Analysis**

**Current Law:** If a parolee is convicted of a crime committed while on parole and is sentenced to an additional imprisonment term, the new sentence must run consecutive to the time to be served on the original term unless otherwise ordered by the sentencing judge.

The Maryland Rules provide that, when a person is convicted of an offense and sentenced to imprisonment, the court clerk must deliver to the person's custodian a commitment record containing specified information, including a statement whether sentences are to run consecutively or concurrently and, if consecutively, when each term is to begin with reference to termination of the preceding term or to any other outstanding or unserved sentence.

Under provisions applicable to a revocation of parole, if the Parole Commission finds that a parolee has violated a condition of parole, the commission may take any appropriate action, including continuing parole: (1) without modification of its conditions; or (2) with modification, including a requirement that the parolee spend all or part of the remaining parole period in a home detention program.

**Background:** Parole is considered for persons sentenced for a term of six months or more to the jurisdiction of the Division of Correction (DOC), or to any other place of confinement or detention for violators of State criminal laws, when the prisoner has served one-fourth of the term or consecutive terms in confinement. Commission jurisdiction extends to persons sentenced under State law to any penal or correctional institution, including local jails and detention centers.

The commission uses hearing examiners to hear certain cases for parole release. The commission itself has exclusive power to hear certain serious cases for parole release and to conduct hearings for revocation of parole. The commission can issue warrants for the return to custody of alleged violators of parole and to suspend or revoke parole upon a showing of its violation.

The commission or its hearing examiners must hear cases for parole release at least once a month at each DOC correctional facility and as often as necessary at other correctional facilities in the State at which inmates eligible for parole consideration are confined.

In addition, the commission is required to: (1) evaluate information on the activities of parolees that the Division of Parole and Probation reports; (2) issue warrants or delegate to the Director of the Division of Parole and Probation the authority to issue warrants to retake parolees who are charged with violating a condition of parole; (3) review and

make recommendations to the Governor concerning parole of an inmate serving a life sentence and, if requested by the Governor, concerning a pardon, commutation of sentence, or other clemency; (4) establish and modify general policy governing the conduct of parolees; and (5) arrange for psychiatric or psychological examination of parole applicants whenever the commission believes an examination will better enable it to decide on the advisability of parole and include the expense for the examination in its annual budget.

The automated information systems operated by the Department of Public Safety and Correctional Services (DPSCS) do not provide information on new offense sentence lengths specific to parole and mandatory supervision release violators. The actual average sentence length for these new offenses is also not readily available. Information as to whether the judge may have preferred a new sentence in such circumstances to run consecutively rather than concurrently is also not known.

**State Expenditures:** Under this bill a parolee or mandatory supervision release may be required to serve the remainder of their original sentence consecutively to the new sentence, if so ordered by the judge. Since under current law most of these cases result in the new sentence running concurrently with the original term of confinement, this change has the effect of potentially increasing the term of confinement on average for all new offense violators in an amount equal to the length of the new sentence, if there emerges a judicial preference for consecutive sentencing rather than concurrent sentencing under such circumstances.

In fiscal 2003, approximately 1,000 parole and mandatory supervision releases had their supervision revoked for the commission of a new offense while under supervision.

Assuming that the average new sentence for a parole or mandatory supervision violator is approximately four years (the average sentence for any new commitment) and all judges ordered the new sentence consecutive to the original term, the term of confinement for these violators would increase by approximately four years on average. Since there is a high likelihood that these persons will not be reparaoled, it is assumed that they would serve 75% of the additional term. The impact based on serving 75% of the additional four-year sentence would be the need for an additional 3,000 beds (1,000 revocations for new sentences each year times an average 36 month increased length of stay). Even if the number of consecutive commitments is halved, the DOC bed impact estimates could still be 1,500 beds (500 revocations for new sentences each year times an average 36-month length of stay).

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.

Beginning in about fiscal 2008, and for the next several years, general fund expenditures would increase. At some time in the future, this bill could continue to 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.

It should be noted that, if the bill's provisions are applied only to defendants paroled after October 1, 2004 and having a revocation of release for the commission of a new crime after that parole release, the bed impact may not begin for three to five years. If the bill's provisions are applied to current inmates on parole or mandatory supervision, the impact could begin sooner.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** SB 884 (Senator Miller) – Judicial Proceedings.

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

**Fiscal Note History:** First Reader - March 8, 2004  
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