

**Department of Legislative Services**  
Maryland General Assembly  
2004 Session

**FISCAL AND POLICY NOTE**

Senate Bill 886 (Senator Miller)  
Judicial Proceedings

---

**Correctional Services - Concurrent and Consecutive Sentences - Offenders on Parole**

---

This bill requires that a person who commits a crime while on parole, and who is sentenced to an additional term of imprisonment for the new crime, be given a sentence that runs concurrently, rather than consecutively, to the original sentence unless the judge imposing the additional sentence expressly orders otherwise.

The bill also provides that a court must determine if the new sentence is to be concurrent or consecutive, as required under a specified Maryland Rule. 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. The parolee may not receive credit for imprisonment on the original and new sentences for the same period of time.

The bill's provisions are applied prospectively only.

---

**Fiscal Summary**

**State Effect:** Minimal. It is assumed that this bill would tend to maintain concurrent, rather than consecutive, sentencing practices under circumstances covered under the bill.

**Local Effect:** None.

**Small Business Effect:** None.

---

## 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.

**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:** According to the Maryland Commission on Criminal Sentencing Policy, under current law, it is rare for a judge to order a consecutive sentence under the circumstances covered by this bill. 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.

Under current law, most of these cases result in the new sentence running concurrently with the original term of confinement. Under this bill, a parolee or mandatory supervision release could still be required to serve the remainder of their original sentence concurrent with, or consecutive to, the new sentence. However, it would appear that a judicial preference for concurrent sentencing would continue under this bill.

The bill's prohibition against a parolee receiving credit for imprisonment on the original and new sentences for the same period of time, if sentenced to a consecutive term, may lead to some additional time served by those few persons sentenced to a new consecutive term.

DPSCS believes that the provisions of this bill could affect sentencing practices to the extent that additional consecutive sentences, rather than concurrent sentences, are handed down, so that incarceration costs for DOC could potentially increase significantly. The Department of Legislative Services believes that such a prospect is possible, but not likely. In any event, any potential bed space impacts would not be felt until beyond fiscal 2008. Such an effect could be tracked by DOC and normal budgeting processes should be able to plan for and handle such an eventuality.

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.

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, any possible bed impact would not begin for three to five years.

If the bill's provisions are applied to current inmates on parole or mandatory supervision, any possible impact could begin sooner.

---

### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Judiciary (Administrative Office of the Courts), Commission on Criminal Sentencing Policy, Department of Public Safety and Correctional Services, Department of Legislative Services

**Fiscal Note History:** First Reader - March 23, 2004  
ncs/jr

---

Analysis by: Guy G. Cherry

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