

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

**FISCAL AND POLICY NOTE**  
**Revised**

Senate Bill 67 (Chairman, Budget and Taxation Committee)  
(By Request – Departmental – Public Safety and Correctional Services)

Budget and Taxation Appropriations

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**Corrections - Local Correctional Facilities - Financial Assistance for Counties**

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This departmental bill clarifies provisions governing State financial assistance for the construction of local correctional facilities by which a county may continue to apply for such assistance, as specified.

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**Fiscal Summary**

**State Effect:** None. The bill is corrective in nature and codifies current practice.

**Local Effect:** None.

**Small Business Effect:** The Department of Public Safety and Correctional Services (DPSCS) has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment. (The attached assessment does not reflect amendments to the bill.)

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**Analysis**

**Bill Summary:** This bill clarifies that the length of sentence of local inmates that must be used by DPSCS to determine anticipated confinement levels at a local correctional facility reflects those inmates who are serving a sentence between six and 12 months, rather than all inmates sentenced to 12 months or less.

If DPSCS determines that the anticipated confinement of inmates in a county's local correctional facility would exceed the capacity of the local correctional facility, the State must pay 100% of the costs of a new or enlarged existing local correctional facility.

For the purpose of anticipating inmate confinement, DPSCS must annually review and study each county's local correctional facility population in conjunction with data relevant to patterns of sentencing, geographic distribution of inmates, and certain rates of growth of inmates sentenced to more than six months but not less than 12 months.

**Current Law:** If DPSCS determines that the anticipated confinement of inmates in a county's local correctional facility as a result of the sentencing stipulation effective on January 1, 1987, would exceed the capacity of the local correctional facility, the State must pay 100% of the costs of a new or enlarged existing local correctional facility. For the purpose of anticipating inmate confinement, DPSCS must annually review and study each county's local correctional facility population in conjunction with data relevant to patterns of sentencing, geographic distribution of inmates, certain rates of growth of inmates sentenced to not less than six months but not more than 12 months.

Currently, the State provides financial assistance for the construction of new or expansion of local correctional facilities based on the number of inmates housed at local jails with sentences of greater than six months but less than 12 months. The State has never changed its practice in providing 100% of eligible costs. The bill is intended to clarify what has been the practice all along.

**Background:** The bill corrects problems inadvertently introduced to the Annotated Code during code revision in the early 1990s. During code revision and a subsequent attempt to clarify the statute, the law was altered, slightly changing the definition of what constituted an eligible request for State assistance in financing local correctional facilities.

Previous to statutory changes enacted in the mid 1980s, the State confined inmates sentenced to greater than six months and local jurisdictions housed inmates with sentences less than six months. This was changed to require that offenders sentenced to terms of 12 months or less are sent to local facilities. Offenders with sentences of 12 to 18 months are sent to either local or State facilities at the judge's discretion at the time of sentencing. Offenders with sentences of greater than 18 months are sent to State facilities. To offset the increased population of inmates at the local level (those sentenced to between six and 12 months), this program was created to finance the cost of constructing or renovating local correctional facilities.

In January 1989, the Office of the Attorney General issued an advisory letter to DPSCS advising that then current statutory provisions governing determinations of anticipated confinement, in connection with a local application for financial assistance for local detention center construction costs, was only to apply to sentences imposed from those

greater than six months through 12 months. As a result, DPSCS applied that standard for making such determinations, which have always been considered to be discretionary.

Chapter 54 of 1999 created the Correctional Services Article in the Annotated Code of Maryland. Section 11-105(a), addressing financial assistance to counties for inmate costs, should have been derived from former Article 27, Section 705(e) without substantive change. It was not. The unintended changes expanded the range of sentences to be used to determine eligibility for applications from counties to DPSCS from those imposed from 6 to 12 months to all sentences of 12 months or less.

An effort was made in 2003 to correct this error via a technical change contained in the Budget Reconciliation and Financing Act of 2003, enacted as Chapter 203 of 2003. However, the language contained in this enactment did not correctly reflect the statutory provisions as they existed prior to the enactment of the Correctional Services Article.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Washington County, Prince George's County, Worcester County, Department of Public Safety and Correctional Services, Department of Legislative Services

**Fiscal Note History:** First Reader - January 26, 2004  
mh/jr Revised - Senate Third Reader - March 29, 2004

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