

Department of Legislative Services
Maryland General Assembly
2007 Session

FISCAL AND POLICY NOTE

House Bill 1206

(Chair, Judiciary Committee) (By Request –
Departmental – Public Safety and Correctional Services)

Judiciary

Judicial Proceedings

**Correctional Services - Inmates and Detainees Who Are Pregnant or Have
Newborn Child**

This departmental allows the Division of Correction (DOC) to grant special leave for an inmate to participate in a residential or nonresidential treatment program including a program for pregnant women or a program to establish bonding between mothers and newborn children. The bill allows an inmate granted leave under this provision to remain outside of the institution for any period of time consistent with public safety.

Fiscal Summary

State Effect: A treatment program for inmates affected under this bill does not currently exist within facilities operated by the Department of Public Safety and Correctional Services (DPSCS). While this bill allows the development and operation of treatment programs in State correctional facilities, and expands the eligibility for such programs, there is no immediate additional operational or fiscal impact. Any eventual treatment costs for programs operated under the auspices of DPSCS would be borne by the department and cannot be readily quantified at this time.

Local Effect: None.

Small Business Effect: DPSCS has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment.

Analysis

Bill Summary: The bill adds mental health treatment and participation in a residential program of treatment in the best interest of an inmate's expected or newborn child to the reasons an inmate may be released on parole at any time, if amenable to treatment and not serving a term for specified criminal offenses (including child abuse, sexual abuse of a child, and a crime of violence).

Under existing provisions relating to pregnant inmates, the bill allows application of these provisions in any correctional facility under control of DPSCS, rather than only a DOC facility. The Parole Commission, rather than DOC, is authorized to pass recommendations under these provisions to the Governor for the exercise of executive clemency powers. DPSCS may allow a pregnant inmate to participate in programming and to retain custody of the newborn child in or out of custody if:

- the environment and program are consistent with the best interests of the child and consistent with public safety; and
- the custody is not inconsistent with the parental rights of any individual who is not detained or confined in a correctional facility.

Current Law: On the recommendation of treatment staff and with the approval of the managing official of a DOC facility, the Commissioner of Correction or the Deputy Commissioner may grant special leave allowing inmate participation in a meritorious program or activity within or outside of the State that the commissioner or managing official believe meet specified standards.

An inmate may be released on parole at any time in order to undergo drug or alcohol treatment if amenable to drug or alcohol treatment and not serving a term for specified criminal offenses (including child abuse, sexual abuse of a child, and a crime of violence).

Generally, provisions relating to pregnant inmates are limited to correctional facilities of DOC. Recommendations for clemency under these provisions are made to the Governor through DOC.

Background: DPSCS advises that this bill would enable pregnant inmates to be placed in residential or nonresidential programs for treatment that are in the best interest of the inmate and her expected or newborn child for appropriate periods of time. According to DPSCS, it removes the barriers to eligibility for this program by making leave and parole prior to eligibility an option and also enables DOC to allow special leave to inmates for treatment programs, especially focused on pregnant female inmates.

DPSCS's TAMAR's Children Program is a diversionary program for offenders and newborns. According to DPSCS, the ability to place appropriate individuals into the program has been hindered from the outset by placement obstacles addressed under this bill. Under current law, DPSCS must restrict pregnant inmates to their respective institution until delivery.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Health and Mental Hygiene, Department of Public Safety and Correctional Services, Department of Legislative Services

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ncs/jr

Analysis by: Guy G. Cherry

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