

Department of Legislative Services
Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE

House Bill 620
Judiciary

(Delegate McDonough, *et al.*)

Witness Protection Act

This bill prohibits the earning of diminution of sentence credits by a State or local inmate if the inmate's term of confinement includes a consecutive or concurrent sentence for inducing false testimony or avoidance of subpoena or retaliation for testimony.

The bill's provisions are applied prospectively only.

Fiscal Summary

State Effect: Minimal. The bill's limitations on diminution earning abilities for a limited number of inmates after October 1, 2008 is not expected to measurably increase State correctional costs.

Local Effect: Minimal. The bill's limitations on diminution earning abilities for a limited number of inmates after October 1, 2008 is not expected to measurably increase local correctional costs.

Small Business Effect: None.

Analysis

Current Law: For Division of Correction inmates whose terms of confinement include consecutive or concurrent sentences for a crime of violence or a crime involving a controlled dangerous substance, the deduction in the sentence for good conduct is calculated at 5 days per calendar month, which are awarded in advance. For all other inmates, the deduction is calculated at 10 days per calendar month. An inmate may also

receive deductions calculated at 5 days per calendar month for work tasks and education and 10 days per calendar month for special projects. These credits are awarded as they are earned. However, the total deduction may not exceed 20 days per calendar month.

When an inmate's total number of diminution credits is equal to the remainder of sentence, including consideration for any losses of credits, the inmate is eligible for mandatory supervision release.

A deduction may not be allowed for a period during which an inmate does not receive credit for service of the inmate's term of confinement, including a period (1) during which the inmate's sentence is stayed; (2) during which the inmate is not in DOC custody because of escape; or (3) for which the Maryland Parole Commission has declined to grant credit after revocation of parole or mandatory supervision.

Chapter 461 of 2005 expanded, increased the possible seriousness of, and altered the penalties for the crimes of: (1) inducing false testimony or avoidance of a subpoena; (2) retaliation for testimony; and (3) intimidating or corrupting a juror.

Specifically, Chapter 461:

- under provisions relating to the crime of inducing false testimony or avoidance of a subpoena, prohibits a person from: (1) harming another, threatening to harm another, or damaging or destroying property with the intent to induce a victim or witness not to report the existence of facts relating to a crime or delinquent act; or (2) soliciting another person to harm another, threaten to harm another, or damage or destroy property with the intent to influence a victim or witness to testify falsely or withhold testimony, or to induce a victim or witness to avoid service of a subpoena or summons, to be absent from certain proceedings, or not to report the existence of facts relating to a crime or delinquent act;
- under existing provisions relating to the crime of retaliation for testimony, prohibits a person from: (1) threatening to harm another with the intent of retaliating against a victim or witness for giving testimony in an official proceeding or reporting a crime or delinquent act; or (2) soliciting another person to harm another, threaten to harm another, or damage or destroy property with the intent of retaliating against a victim or witness for giving testimony in an official proceeding or reporting a crime or delinquent act; and
- under existing provisions relating to the crime of intimidating or corrupting a juror, prohibits a person from: (1) trying, by threat, force, or corrupt means, to influence, intimidate, or impede an officer of a court of the United States in the performance of the person's official duties; or (2) soliciting another person to, by threat, force, or corrupt means, try to influence, intimidate, or impede a juror, a

witness, or an officer of a court of the State or of the United States in the performance of the person's official duties.

Chapter 461 also altered penalties for the crimes of inducing false testimony or avoidance of a subpoena, retaliation for testimony, and intimidating or corrupting a juror. For the crime of inducing false testimony or avoidance of a subpoena and the crime of retaliation for testimony, Chapter 461 subjected a violator to a maximum fine of \$5,000 that may be imposed in addition to, or instead of, the then existing maximum incarceration of five years. It lowered the maximum fine for the crime of intimidating or corrupting a juror from \$10,000 to \$5,000.

The Act provided that, for all three cited offenses, if the testimony, subpoena, official proceeding, or report involving a victim or witness relates to a felonious drug violation or the commission of a crime of violence, or a solicitation or conspiracy to commit such an offense, the violator is guilty of a felony and subject to maximum imprisonment of 20 years, which sentence may be separate from and consecutive to or concurrent with a sentence for any crime based on the act establishing the violation of the cited offense.

Background: In fiscal 2007, the Division of Correction had an intake of three persons for witness intimidation, with an average sentence of 121 months. This bill would increase the eventual length of stay of such persons, would not be felt immediately, and could be budgeted for through normal budgetary processes.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Judiciary (Maryland District Court), Allegany County, Montgomery County, Prince George's County, Talbot County, Baltimore City, Department of Public Safety and Correctional Services, Department of Legislative Services

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mcp/jr

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