

Department of Legislative Services
Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE

Senate Bill 558

(Senators Gladden and McFadden)

(By Request – Baltimore City Administration)

Judicial Proceedings

**Criminal Procedure - Consecutive or Concurrent Sentence for Unlawful
Possession of Regulated Firearm - Diminution Credit Eligibility**

This bill adds the illegal possession of a regulated firearm (under Title 5 of the Public Safety Article) to the crimes for which an inmate, whose term of confinement includes consecutive or concurrent sentences, may earn good conduct diminutions credits at a rate of 5 days per calendar month, rather than 10 days per calendar month.

Fiscal Summary

State Effect: Annual general fund correctional costs could increase by an estimated \$128,600 beginning in FY 2012. Revenues would not be affected.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: For Division of Correction (DOC) 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.

Title 5 of the Public Safety Article generally and specifically regulates firearms and handguns in the State. A regulated firearm is any handgun or any of the 45 assault weapons (or copies) identified in that Article. Among other restrictions, under Title 5, a person may not possess a regulated firearm in the State if the person was convicted of a crime of violence or a violation of specified controlled dangerous substances offenses under Title 5 of the Criminal Law Article. A violator is guilty of a felony and subject to a nonsuspendable, nonparolable mandatory minimum sentence of five years. Each violation of this prohibition is a separate offense. Under a separate prohibition relating to knowing participation of a violation of this title, a violator is subject to maximum penalties of imprisonment for five years and/or a fine of \$10,000. Each violation of this prohibition is also a separate offense.

State Expenditures: In fiscal 2007, DOC had an intake of 247 persons for all gun offenses. Of that number, 106, with an average sentence of about 49.9 months, would have been affected by the provisions of this bill, so that their average length of stay would be increased by 8.2 months per person.

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 \$2,600 per month. This bill alone, however, should not create the need for additional beds, personnel, or facilities. Excluding overhead, the average cost of housing a new DOC inmate (including medical care and variable costs) is \$526 per month. Excluding medical care, the average variable costs total \$148 per month. Under the bill, the average time served for 106 intakes per year would increase by 8.2 months. Assuming the variable inmate costs of \$148 per month, State costs could increase by \$1,214 for each affected inmate (8.2 months x \$148). The total additional cost for all 106 affected inmates would be \$128,642, not accounting for inflation. These costs would not begin to be felt until 2012.

Persons serving a sentence of one year or less in a jurisdiction other than Baltimore City are sentenced to local detention facilities. For persons sentenced to a term of between 12 and 18 months, the sentencing judge has the discretion to order that the sentence be

served at a local facility or DOC. The State reimburses counties for part of their incarceration costs, on a per diem basis, after a person has served 90 days. State per diem reimbursements for fiscal 2009 are estimated to range from \$19 to \$71 per inmate depending upon the jurisdiction. Persons sentenced to such a term in Baltimore City are generally incarcerated in DOC facilities. The Baltimore City Detention Center, a State-operated facility, is used primarily for pretrial detentions.

Additional Information

Prior Introductions: None.

Cross File: HB 964 (Delegate Anderson (By Request – Baltimore City Administration), *et al.*) – Judiciary.

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

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mcp/jr

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