

Department of Legislative Services
Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE

Senate Bill 354 (Senator King, *et al.*)
Judicial Proceedings

Correctional Services - Crimes of Violence - Diminution Credits

This bill specifies that an inmate in a State or local correctional facility may not receive more than 15% of a diminution of the inmate's term of confinement if: (1) the inmate's term includes a consecutive or concurrent sentence for the commission of a crime of violence as defined in the Criminal Law Article; and (2) the inmate is not granted parole on completion of one-half of the inmate's aggregate sentence for violent crimes.

Fiscal Summary

State Effect: Potential significant increase in State correctional costs over time, which may eventually lead to the need for additional beds, personnel, or facilities. Revenues are not affected.

Local Effect: Potential minimal increase in local correctional costs over time. Revenues are not affected.

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 release on mandatory supervision.

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.

Crimes of violence include murder, manslaughter, some sexual offenses, robbery, carjacking, kidnapping, assault, and other offenses, as specified in the Criminal Law Article. Maximum imprisonment penalties for some offenses include the possibility of a life sentence.

For purposes of parole eligibility, a violent crime means all of the cited crimes of violence as well as first, second, or third degree burglary. A person sentenced to a term of incarceration of six months or more is entitled to a parole hearing after having served one-fourth of the term or consecutive terms. A person sentenced to more than one term, including a term during which the person is eligible for parole and a term during which the person is not eligible for parole, cannot be considered for parole unless the person has served the greater of one-fourth of the aggregate term or a period equal to the term during which the inmate is not eligible for parole.

A person convicted of a violent crime is not eligible for parole until that person has served the greater of one-half of the inmate's aggregate sentence for violent crimes or one-fourth of the inmate's aggregate total sentence. A person serving a term of imprisonment for a violent crime must receive an administrative review after that person has served the greater of one-fourth of the inmate's aggregate sentence or a period equal to any term in which the inmate is not eligible for parole. Further, a person sentenced to life imprisonment is not eligible for parole consideration until that person has served 15 years. A person sentenced to life imprisonment for first degree murder is not eligible for parole consideration until that person has served 25 years.

If a parole order is revoked, the inmate must serve the remainder of the sentence originally imposed unless, at the parole commissioner's discretion, the inmate is granted credit for time between the parole release and revocation. An inmate may not receive such credit if: (1) the inmate was serving a sentence for a violent crime when the parole

was revoked; and (2) the revocation was due to a finding that the inmate committed a violent crime while on parole.

State Fiscal Effect: Under the bill, all inmates sentenced for crimes of violence committed after October 1, 2009 are required to serve at least 85% of their term. According to existing DOC data, persons sentenced for these crimes currently serve between 70% and 77% of their term. DOC estimates that the bill will affect 1,416 intakes per year, beginning in fiscal 2010. Requiring diminution credit earning for these inmates to top out at 15% of sentence will result in this affected intake population serving additional incarceration time of between 11.1 months (0.9 years) and 19.5 months (1.6 years). This would create an additional bed space need for DOC of between 1,274 and 2,265 beds over time. This estimate is based on a calculation of the number of affected inmates times the number of additional months.

In addition, because each additional year's intake is also similarly affected, the cumulative effect on correctional costs over time is likely to be significant. Accordingly, this bill may, over time, increase the average daily population in DOC facilities to the extent that additional personnel, infrastructure improvements, or a new prison facility are necessary. Based on a cost of approximately \$155,000 per bed, the cost of building a new medium security 1,300-bed prison facility is currently estimated at \$202 million. Actual costs depend on the design, location, and existing infrastructure.

However, despite the overall typical high sentence lengths for this group of inmates, about 350 inmate with crimes of violence offenses are sentenced each year to sentences of three years or less. This will cause some impact from this legislation to begin in the near term, perhaps within two years.

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. Excluding overhead, the average cost of housing a new DOC inmate (including variable medical care and variable operating costs) is \$342 per month. Excluding all medical care, the average variable costs total \$164 per month.

Local Fiscal Effect: For local correctional facilities, because the vast majority of violent offenders are sentenced to a State correctional facility, it is assumed any potential impact from this bill will be minimal.

Additional Information

Prior Introductions: None.

Cross File: HB 581 (Delegate Kramer, *et al.*) - Judiciary.

Information Source(s): Department of Public Safety and Correctional Services, State Commission on Criminal Sentencing Policy, Department of Legislative Services

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