

Department of Legislative Services
Maryland General Assembly
2010 Session

FISCAL AND POLICY NOTE
Revised

House Bill 599

(Delegate Olszewski, *et al.*)

Judiciary

Judicial Proceedings

Correctional Services - Repeat Child Sexual Offenders - Diminution Credits

This bill prohibits the earning of diminution credits in a State or local correctional facility to reduce the term of confinement of an inmate who is serving a sentence for committing third degree sexual offense against a child under the age of 16 after being previously convicted of committing a third degree sexual offense against a child under the age of 16.

Fiscal Summary

State Effect: Because of the limited number of offenders believed to be affected, the bill's provisions can be handled by existing budgeted resources of the Division of Correction (DOC), the Office of the Public Defender, and the courts for the foreseeable future.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: Third degree sexual offense comprises various prohibitions including nonconsensual, aggravated sexual contact, sexual contact with a victim under the age of 14, a sexual act with a victim who is 14 or 15 years old, and sexual intercourse with a victim who is 14 or 15 years old. A violator is guilty of a felony and subject to a maximum imprisonment for 10 years.

For 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.

Background: Currently, approximately 27,000 persons are serving a prison sentence in State correctional facilities. DOC tracks data on inmate populations by "unique offense" and "most serious offense" for each person remanded to its custody. Conviction information within this tracking system is collected at intake and maintained over time so as to reflect the standing population at any given time. Within each of these offense categorizations, the division has assigned a specific offense coding number, known as the Offender Based State Correctional Information System Code.

DOC does not track intake or standing population data to reflect the age of the victim. It is also noted that the offense code for assault of a minor does not necessarily involve any sexual elements to the underlying crime. The number of sexual offenders serving a term in a DOC facility or the Patuxent Institution for one of the covered offenses under this bill in 2008 was estimated to be about 2,300 persons. Of that total, about 370 are serving a life term. It is unknown how many of these offenders are serving a term as a repeat offender or whose crime had a minor victim.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Commission on Criminal Sentencing Policy, Judiciary (Administrative Office of the Courts), Office of the Public Defender, Department of

Public Safety and Correctional Services, State's Attorneys' Association, Department of
Legislative Services

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