

Department of Legislative Services
Maryland General Assembly
2010 Session

FISCAL AND POLICY NOTE

Senate Bill 349 (Senators Forehand and Madaleno)
Judicial Proceedings

Local Correctional Facilities - Sentenced Inmates

This bill prohibits a judge from sentencing an individual to a local correctional facility for a period exceeding 12 months.

Fiscal Summary

State Effect: General fund expenditures increase by \$11.6 million in FY 2011 for additional operating costs at State correctional facilities. Future year expenditures reflect annualization. State bond expenditures to construct a new correctional facility will total \$202.0 million in FY 2011 through 2014. The annual debt service cost associated with this facility totals \$19.2 million annually over a 15-year period.

(in dollars)	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	11,553,600	15,404,700	15,404,700	15,404,700	15,404,700
Bond Exp.	5,050,000	5,050,000	95,950,000	95,950,000	0
Net Effect	(\$16,603,600)	(\$20,454,700)	(\$111,354,700)	(\$111,354,700)	(\$15,404,700)

Note: () = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: Local government expenditures for correctional facilities will decrease by a significant amount beginning in FY 2011. The amount varies by jurisdiction.

Small Business Effect: None.

Analysis

Current Law: Notwithstanding any other law, a judge may sentence an individual to a local correctional facility if:

- the sentence to be then executed is for a period of not more than 18 months; and
- the judge imposing the sentence is in a jurisdiction that is a party to the operation and maintenance of the local correctional facility to which the individual is sentenced.

Background: 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 a Division of Correction (DOC) facility. Prior to fiscal 2010, the State reimbursed counties for part of their incarceration costs, on a per diem basis, after a person has served 90 days. Currently, the State provides assistance to the counties for locally sentenced inmates and for inmates who are sentenced to and awaiting transfer to the State correctional system. A \$45 per diem grant is provided to each county for each day between 12 and 18 months that a sentenced inmate is confined in a local detention center. Counties also receive an additional \$45 per day grant for inmates who have been sentenced to the custody of DOC but are confined in a local facility. The State does not pay for pretrial detention time in a local correctional facility. Persons sentenced in Baltimore City are generally incarcerated in DOC facilities. The Baltimore City Detention Center, a State-operated facility, is used primarily for pretrial detentions.

State Fiscal Effect: Currently, the average total cost per inmate systemwide in a DOC facility, including overhead, is estimated at \$2,750 per month, or about \$92 per day. The average cost per inmate in a DOC minimum security facility, including overhead is estimated at \$2,230 per month, or about \$78 per day. Such overhead costs include personnel costs. The number of additional correctional and administrative personnel required under the bill would likely range from 225 to 240 staff positions, though most would not be hired until completion of a new prison facility, as discussed below.

While it is unclear how this bill may affect current sentencing practices and patterns, the Department of Public Safety and Correctional Services (DPSCS) indicates that the bill would result in about 1,208 inmates being sentenced to DOC facilities rather than local detention facilities, annually. It is assumed that each of these inmates, on average, would serve a sentence of 15 months in a DOC facility, while earning sentence reductions of a minimum of 10 good conduct credit days per inmate per month. This results in the need for an estimated 215 bed days for each of these inmates, for a total of 259,720 additional bed days for DOC.

It is assumed that these additional inmates will be housed in the west wing of the Metropolitan Transition Center (MTC) in Baltimore City, a minimum security facility used for male short-term offenders. MTC has a current operating capacity of 650 inmates

(not including use of the west wing), and operated at a capacity of 1,778 in fiscal 2008 (making full use of the facility). In addition, to accommodate female intakes, DOC may need to use the Baltimore Pre-Release Unit for Women and the Tolson Correctional Facility (formerly the Tolson Boot Camp) in Jessup.

Because the bill's provisions are assumed to apply prospectively only, DOC estimates that initially the bill would result in additional monthly inmate costs of about \$1.7 million until October 1, 2011, when the full impact occurs. Due to the bill's October 1, 2010 effective date, State expenditures increase by \$15.2 million in fiscal 2011 and by \$20.3 million beginning in fiscal 2012.

However, these new costs would be off-set by savings in State reimbursement for inmate costs after the person has served 12 months. At \$45 per day for three months (assuming an average term of 15 months), State reimbursements for 906 persons would decrease by about \$3.7 million in fiscal 2011 and by about \$4.9 million annually, thereafter.

The bill would increase the average daily population in DOC facilities to the extent that additional beds, 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 would depend on the design, location, and existing infrastructure.

The Department of Legislative Services notes that the design and actual construction of a new prison facility would take about four years to complete. Design and location costs would likely be about 5% of the project and spread over fiscal 2011 and 2012. Actual construction costs are assumed to occur over fiscal 2013 and 2014. The annual debt service cost associated with this facility totals \$19.2 million annually over a 15-year period. This estimate reflects a 5% interest rate and a 15-year term of maturity.

Local Fiscal Effect: Assuming a continuation of current sentencing practices and patterns, each local jurisdiction will see a reduction in average daily populations.

Anne Arundel County reports that there are currently 159 inmates sentenced to terms greater than 12 months at the county detention facilities. The average per diem rate in Anne Arundel County, including overhead is \$91 per day. The county estimates that the bill would save over \$1.3 million annually.

Howard County reports that in calendar 2009 there were 101 inmates sentenced to terms greater than 12 months, for a total of 53,627 bed days. Allowing for diminution credit earnings by those inmates, the actual bed days would be reduced to 32,176. Assuming an inmate cost for food and supplies of \$10 per day per inmate, the bill would decrease county expenditures by \$321,800 annually.

Garrett and Montgomery counties report that the local savings would be significant, but did not quantify those savings.

Additional Comments: The Administrative Office of the Courts advises that, under the bill, sentencing judges may continue to send persons receiving sentences of between 12 and 18 months to local detention facilities for a variety of reasons, including the relative quality of local rehabilitative programs and community connections.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Anne Arundel, Garrett, Howard, and Montgomery counties; Judiciary (Administrative Office of the Courts); Department of Public Safety and Correctional Services; Department of Legislative Services

Fiscal Note History: First Reader - February 15, 2010
ncs/hlb

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