

Department of Legislative Services  
2011 Session

FISCAL AND POLICY NOTE

House Bill 172  
Judiciary

(The Speaker, *et al.*) (By Request - Administration)

**Criminal Law - Diminution Credits - Possession of a Regulated Firearm by Person Convicted of Crime of Violence**

This Administration bill adds the illegal possession of a regulated firearm, by a person previously convicted of a crime of violence or drug crime, to the crimes for which an inmate may earn good conduct diminution credits at a rate of 5 days per calendar month, rather than 10 days per calendar month.

**Fiscal Summary**

**State Effect:** General fund expenditures increase by approximately \$231,700 beginning in FY 2014. Out-year costs reflect inflation. Revenues are not affected.

(in dollars)	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	0	0	231,700	234,000	236,300
Net Effect	\$0	\$0	(\$231,700)	(\$234,000)	(\$236,300)

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

**Local Effect:** None.

**Small Business Effect:** The Administration has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment.

**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, with the exception of certain sexual offenders, 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 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. 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.

**State Expenditures:** DOC received 271 inmates in fiscal 2010 who had at least one conviction for a regulated firearm offense and would likely have been affected under the bill if in effect at intake. The following information was available from DOC on these inmates:

- Of the 143 inmates for whom the regulated firearm offense was ranked as the "most serious" offense at intake, 50 had concurrent sentences for drug offenses that already qualified them for reduced diminution credits under existing law. That means that 93 of the remaining inmates would qualify for the reduced five days per month diminution credits under this bill; and;
- Of the 128 inmates for whom the regulated firearm offense was ranked as a "lesser" offense than other concurrent sentences for intake purposes, 54 had concurrent sentences for violent crimes that already qualified them for reduced diminution credits under existing law. That means that 74 of these remaining inmates would qualify for the reduced five days per month diminution credits.

Based on this data, DOC estimates that 167 of the 271 inmates cited above would be impacted under the bill. Assuming that these 167 inmates are scheduled to serve an average sentence of 48 months, these inmates would have to serve an additional 240 days (or 8 months) each before reaching a mandatory supervision release.

However, because the bill will not take effect until October 1, 2011, and the sentencing of offenders under its provisions would not start until approximately 9-12 months later, the actual impact would not be felt by DOC until sometime in fiscal 2014 at the earliest.

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 \$2,920 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 variable medical care and variable operating costs) is about \$390 per month. Excluding all medical care, the average variable costs total \$170 per month. Assuming the variable inmate costs of \$170 per month, State expenditures increase by \$1,360 for each affected inmate (8 months x \$170). The additional cost for all 167 affected inmates would total \$227,120. These costs, however, would not be realized until fiscal 2014, and inflation would likely set the fiscal 2014 costs at \$231,685.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** SB 173 (The President, *et al.*) (By Request - Administration) - Judicial Proceedings.

**Information Source(s):** Commission on Criminal Sentencing Policy, Judiciary (Administrative Office of the Courts), Department of Public Safety and Correctional Services, Department of Legislative Services

**Fiscal Note History:** First Reader - February 8, 2011  
mc/hlb

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## ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Criminal Law - Diminution Credits - Possession of a Regulated Firearm by Person Convicted of Crime of Violence

BILL NUMBER: SB 173/HB172

PREPARED BY: Governor's Legislative Office

### PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

### PART B. ECONOMIC IMPACT ANALYSIS

The proposed legislation will have no impact on small business in Maryland.