

Department of Legislative Services
 Maryland General Assembly
 2011 Session

FISCAL AND POLICY NOTE

House Bill 382
 Judiciary

(Delegate Smigiel, *et al.*)

Correctional Services - Diminution Credits - Use of a Firearm in Commission of a Crime

This bill prohibits the earning of diminution credits to reduce the term of confinement for an inmate in a State or local correctional facility if the inmate is serving a sentence for a crime committed under circumstances in which a firearm was used in the commission of the crime. The prohibition may not be construed to require an inmate to serve a longer sentence of confinement that is authorized by the statute under which the inmate was convicted. The prohibitions are applied prospectively only.

Fiscal Summary

State Effect: General fund expenditures increase by \$1.5 million in FY 2014 and by \$3.9 million in FY 2016. 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	1,525,100	3,055,500	3,892,400
Net Effect	\$0	\$0	(\$1,525,100)	(\$3,055,500)	(\$3,892,400)

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

Local Effect: Additional costs for local detention facilities in most or all jurisdictions. The costs will vary depending on the number of persons incarcerated for one of the covered offenses.

Small Business Effect: None.

Analysis

Bill Summary: The term “firearm” means (1) a weapon that expels, is designed to expel, or may readily be converted to expel a projectile by the action of an explosive; or (2) the frame or receiver of such a weapon. It includes a starter gun.

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 (CDS), 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.

State Fiscal Effect: DOC received 341 inmates in fiscal 2010 who would be covered under this bill. Of that number, 278 were sentenced for a crime of violence in which a handgun was used, 30 for the use of a firearm in a CDS offense, and 33 for other violations involving the use of a firearm. According to DOC, this bill would:

- increase the stay of a person convicted of a crime of violence with a handgun by 32 months;
- increase the stay of a person convicted of a CDS offense by 29 months; and
- increase the stay of a person convicted of other weapon violations by 6.5 months.

Persons serving a sentence longer than 18 months are incarcerated in DOC facilities. Currently, the average total cost to house a DOC 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, including medical care, of \$390 per month, State correctional costs could increase by \$12,400 for each person convicted of a covered crime of violence; \$11,310 for each person convicted of a covered CDS offense; and \$2,535 for each other person covered under the bill. The cumulative additional DOC costs for all 341 affected persons totals \$3.9 million over the total length of their incarceration. 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 to 12 months later, the actual impact would not be felt by DOC until sometime in fiscal 2014 at the earliest. An annual inflation rate of 3% would likely set the additional fiscal 2014 costs for all 341 offenders at \$1.5 million. For each year thereafter, there is a cumulative effect so that by fiscal 2016, for example, additional costs for DOC grow to about \$3.9 million.

Although the bill would delay initial parole hearings for the affected inmates, any potential effect on the operations of the Maryland Parole Commission is expected to be negligible.

Local Fiscal Effect: Because the bill's elimination of diminution credits for some offenders also extends to local correctional facilities, local costs for an unknown number of inmates would also increase. Such an effect on local expenditures cannot be readily quantified.

Additional Information

Prior Introductions: None.

Cross File: None.

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

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mc/hlb

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