

Department of Legislative Services
 Maryland General Assembly
 2011 Session

FISCAL AND POLICY NOTE

House Bill 504
 Judiciary

(Delegate Dumais, *et al.*)

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 \$4.4 million in FY 2012 for additional operating costs at the Division of Correction. Future year expenditures reflect annualization and inflation. State revenues are not affected.

(in dollars)	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	4,432,700	8,144,000	8,506,000	8,884,200	9,279,400
Net Effect	(\$4,432,700)	(\$8,144,000)	(\$8,506,000)	(\$8,884,200)	(\$9,279,400)

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 2012. 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: 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 may result in about 1,143 inmates being sentenced to DOC facilities rather than local detention facilities on an annualized basis. This estimate is based on the fiscal 2010 annual average daily population for local correctional facilities inmates serving sentences extending from 12 to 18 months. It is assumed that the additional DOC inmate population would be housed in the Metropolitan Transition Center – Baltimore Region (MTC). **Exhibit 1** shows the anticipated phase-in of these inmates to MTC in fiscal 2012. DPSCS advises that a new correctional facility would not be necessary under the bill.

In addition, under current law, the State must pay local detention centers a rate of \$45 per day for each inmate, after a conviction, until transition to a DOC facility. Based on fiscal 2009 data, the average stay of an inmate at a local correctional facility for pre-trial purposes, prior to being delivered to DOC postconviction, is 11 days. Accordingly, this would result in an additional annual cost to the DOC of \$565,785 (1,143 inmates x 11 days x \$45 per day). In fiscal 2012, these additional costs are expected to total \$424,339.

Excluding overhead, the average cost of housing a new DOC inmate (including variable medical care and variable operating costs) is about \$390 per month, or \$4,680 per year.

In addition to these new inmate costs, the bill would result in the need to hire additional correctional officers for the necessary security and supervision of the additional inmates. Accordingly, general fund expenditures increase by \$5,932,669 in fiscal 2012, which accounts for the bill's October 1, 2011 effective date. This estimate reflects the cost of hiring 65 correctional officers, as well as variable inmate costs (as phased in during fiscal 2012) with medical care and local jail back-up costs. It includes salaries, fringe benefits, and other ongoing operating expenses.

Correctional Officers	65
Salaries and Fringe Benefits	\$2,604,682
Variable Inmate Costs (incl. medical care)	2,893,410
Local Jail Reimbursements	424,339
Other Operating Expenses	<u>10,238</u>
New FY 2012 State Expenditures	\$5,932,669

Future year expenditures reflect full salaries with 4.4% annual increases and 3% employee turnover, as well as 3% annual increases in variable inmate costs and 1% annual increases in other ongoing operating expenses.

However, these new costs would be off-set by savings in State reimbursement for inmate costs after a person has served 12 months. DPSCS was unable to estimate the magnitude of these savings. For purposes of illustration, at \$45 per day, per inmate for each month, State reimbursements could also decrease by about \$1.5 million annually, if all 1,143 persons actually served 13 months at MTC rather than 12 months at a local detention facility. Such a savings could theoretically increase to \$9.3 million if all 1,143 persons served a full 18 months at MTC (1,143 x 180 days x \$45 per day). Such an eventuality is highly unlikely. Costs shown above in the Fiscal Summary Box assume a reimbursement savings of \$1.5 million annually.

Exhibit 1
Phased-in Inmate Increases at MTC for Fiscal 2012
(with attendant variable inmate costs)

	<u>Inmate Increase Per Month</u>	<u>Cumulative Total Inmates</u>	<u>Variable Cost Per Month</u>	<u>Cost Per Month</u>
October 2011	190	190	\$390	\$74,100
November 2011	190	380	390	148,200
December 2011	190	570	390	222,300
January 2012	190	760	390	296,400
February 2012	190	950	390	370,500
March 2012	190	1,140	390	444,600
April 2012	3	1,143	390	445,770
May 2012		1,143	390	445,770
June 2012		1,143	390	445,770
Fiscal 2012 Totals	1,143			\$2,893,410

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

Baltimore County advises that the bill will reduce average daily populations by about 200 inmates. Recent per diem costs for Baltimore County were reported at about \$72 per inmate.

Frederick County indicates that the bill will result in significant changes to plea bargaining and sentencing practices, resulting in more rather than fewer persons being remanded to local jails. Charles County also believes that the bill could result in more rather than fewer remands to local detention centers. However, neither jurisdiction provided data to support such a supposition.

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: SB 349 of 2010 received an unfavorable report from the Senate Judicial Proceedings Committee.

Cross File: SB 118 (Senators Forehand and Madaleno) - Judicial Proceedings.

Information Source(s): Baltimore, Charles, and Frederick counties; Judiciary (Administrative Office of the Courts); Maryland Association of Counties; Department of Public Safety and Correctional Services; Department of Legislative Services

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ncs/hlb

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