

Department of Legislative Services
 Maryland General Assembly
 2012 Session

FISCAL AND POLICY NOTE

House Bill 266 (Chair, Judiciary Committee)(By Request - Departmental
 - Public Safety and Correctional Services)

Judiciary

**Division of Parole and Probation - Interstate Compact for Adult Offender
 Supervision - Application Fee**

This departmental bill establishes a \$100 application fee for offenders who apply through the Division of Parole and Probation (DPP) for transfer of probation, parole, or mandatory release supervision to another state in accordance with the Interstate Compact for Adult Offender Supervision. The bill also establishes an Interstate Compact for Adult Offender Supervision Fund. The fund may only be used to pay costs incurred for the return of supervisees to Maryland as required under the terms of the compact. DPP must administer the fund, which is subject to audit by the Office of Legislative Audits (OLA) of the Department of Legislative Services.

The bill takes effect July 1, 2012.

Fiscal Summary

State Effect: Special fund revenues and expenditures are expected to increase by \$52,500 in FY 2013 and by \$70,000 annually, thereafter. Audit requirements for OLA can be handled with existing budgeted resources.

(in dollars)	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
SF Revenue	\$52,500	\$70,000	\$70,000	\$70,000	\$70,000
SF Expenditure	\$52,500	\$70,000	\$70,000	\$70,000	\$70,000
Net Effect	\$0	\$0	\$0	\$0	\$0

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

Local Effect: Any costs from additional extraditions of probationers by local jurisdictions are assumed to be covered by reimbursements from the new fund.

Small Business Effect: The Department of Public Safety and Correctional Services has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment.

Analysis

Current Law/Background: Maryland's dealings with other states relating to DPP supervisees are governed by an interstate compact overseen by the Interstate Commission for Adult Offender Supervision. DPP serves as Maryland's Compact Administrator. According to the commission's fiscal 2011 annual report, the states supervised 113,693 compact offenders, an increase of 1% over fiscal 2010.

Any supervisee who wishes to reside in another state is subject to the rules, regulations, and conditions established by the Interstate Commission. The compact subjects member states to administrative fines and penalties for noncompliance with compact terms and rules. However, the issue of offender compliance and behavior with respect to the compact is left to each state to address.

According to DPP, transfer requests under the compact are classified into two categories: mandatory or discretionary. The requirements for a mandatory transfer are, generally, that the supervisee was a resident of the receiving state at the time of sentencing in the sending state, or that family members in the receiving state have been cited as a means of support for the offender. Other situations that call for mandatory transfer include a military commitment in the receiving state and employment transfers of the offender or a family member. The bulk of the mandatory transfers for Maryland, and most states, are based on residency or family in the receiving state, even though the offender's criminal offenses occurred here. Approximately 80% of the transfers of Maryland offenders are done under the mandatory transfer rules and involve offenders whose residency is in the other state. Discretionary transfers may involve a myriad of reasons, such as a desire to attend a treatment program out of state.

The average length of supervision for compact cases increased from 3.17 years in fiscal 2010 to 3.53 years in 2011. The number of offenders serving a lifetime supervision sentence is relatively small and declined from 627 offenders in fiscal 2010 to 564 compact offenders in fiscal 2011. Although there were 839 supervisees in calendar 2011 who were transferred out of Maryland to another state under the authority of the compact, typically there are about 700 supervisees in Maryland annually who are accepted for supervision by another state.

The most recent changes to the compact rules (effective March 1, 2011) require, rather than allow, member states to initiate procedures to retake a supervisee from a receiving state under the following circumstances:

- the supervisee is released from incarceration for a new felony offense committed in the receiving state;
- the supervisee is placed under supervision for a new felony conviction in the receiving state;
- the supervisee has absconded from supervision in the receiving state;
- the supervisee is a violent offender who has committed a “significant violation”;
or
- the supervisee has been convicted of a violent crime in the receiving state.

A “violent crime” is defined as any crime involving the unlawful exertion of physical force with the intent to cause injury or physical harm, crimes which actually cause direct or threatened physical harm, crimes involving the use of a deadly weapon, or any sexual offense that requires registration as a sex offender.

Currently, the Maryland State Police conducts the travel and processes necessary to return parolees and mandatory supervision release supervisees to Maryland. DPP reimburses the State Police for costs associated with these actions. DPSCS budgets \$50,000 annually for reimbursements to the State Police.

The State Police will not perform such duties with respect to probationers. This is handled by local authorities. The State’s Attorney’s office where the probationer’s sentence originated must make the decision to extradite and then reimburse the local sheriff’s office or other local law enforcement units for costs associated with these extraditions. All State’s Attorneys’ offices in the State have advised DPP that their current budgets cannot absorb the additional extraditions expected under the new compact rules.

State Fiscal Effect: Although DPP does not know how many additional persons will have to be extradited under the new compact rules whereby a supervisee must be returned to the transferring state, it is clear that State’s Attorneys’ offices are not equipped to handle these costs with respect to probationers. DPP intends to use the special fund as a means to reimburse local governments for the costs associated with returning persons to Maryland. The State Police will continue to be reimbursed for associated costs from DPP general fund appropriation.

Assuming 700 supervisee applications in Maryland are received annually to transfer supervision to another state, there will be \$70,000 deposited to the special fund annually from the \$100 fee charged for each application. However, in fiscal 2013, accounting for

the bill's October 1, 2012 effective date, it is expected that 525 applications will be received resulting in \$52,500 being deposited to the special fund. DPP advises that an administrative reimbursement procedure will be established for local jurisdictions to apply for and receive reimbursements for the costs of required extraditions under the compact from the Financial Services Division of DPSCS. DPP will verify that the returned supervisee was, in fact, a returnee under the compact and that the offender is now in Maryland.

Legislative Services assumes that all or most of each year's special funds will be exhausted within the same fiscal year, or early the next year, from approved reimbursements from the special fund. Actual annual reimbursement levels cannot be known without actual experience under the bill.

Local Fiscal Effect: Local costs resulting from additional extraditions to Maryland under the compact should be fully reimbursable from the new special fund. It is unclear how long a delay there may be for these reimbursements to actually take place without any actual experience under the bill.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Public Safety and Correctional Services,
Department of Legislative Services

Fiscal Note History: First Reader - February 10, 2012
ncs/hlb

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Division of Parole and Probation – Interstate Compact for Adult Offender Supervision – Application Fee

BILL NUMBER: HB 266

PREPARED BY: Department of Public Safety and Correctional Services

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 effect on small business Maryland.