

Department of Legislative Services
Maryland General Assembly
2012 Session

FISCAL AND POLICY NOTE

Senate Bill 398 (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 \$28.9 million in FY 2013 for additional operating costs at the Division of Correction (DOC). Annualization sets future year costs at about \$39.0 million, not accounting for potential inflation or deflation of monthly State incarceration costs with overhead. State revenues are not affected.

Local Effect: Local government expenditures for correctional facilities will decrease by significant amounts beginning in FY 2013. 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 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.

The most significant programmatic decrease for DOC in the fiscal 2013 allowance is the nearly \$1.8 million associated with the planned closure of one facility during fiscal 2013, the Southern Maryland Pre-release Unit. The long-range plan includes the closure of additional facilities. According to the Department of Public Safety and Correctional Services (DPSCS), the displaced staff will be used to reduce overtime and address staffing shortfalls at other facilities. DPSCS is anticipating that the plan will generate additional savings in fiscal 2014, as more inmates are paroled and correctional staff can be redeployed to address the continuing significant overtime issues for the department.

State Fiscal Effect: While it is unclear how this bill may affect current sentencing practices and patterns, DPSCS indicates that the bill may result in about 1,144 inmates being sentenced to DOC facilities rather than local detention facilities on an annualized basis. This estimate is based on the fiscal 2011 annual average daily population for local correctional facilities inmates serving sentences extending from 12 to 18 months. Although, DPSCS advises that a new correctional facility would not be necessary under the bill, it is assumed that DPSCS would have to re-open a closed facility in order to handle an additional DOC inmate population of 1,144 inmates at an annual total cost of \$39.9 million. Accounting for the bill's October 1, 2012 effective date, general fund expenditures to operate a newly re-opened correctional facility in 2013 is estimated at \$29.9 million.

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 2010 data, the average stay of an inmate at a local correctional facility for pre-trial purposes, prior to being delivered to DOC postconviction, is 13 days. Accordingly, this would result in an additional annual cost to DOC of \$669,240 (1,144 inmates x 13 days x \$45 per day). In fiscal 2013, these additional costs are expected to total \$501,930.

Because this bill creates the need for additional beds, personnel, and facilities, this full cost per inmate is used to estimate new State incarceration costs under the bill, which includes the costs for additional correctional officers for the necessary security and supervision of the additional inmates.

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 1,144 persons actually served 13 months at a DOC facility rather than 12 months at a local detention facility. Such a savings could theoretically increase to \$9.3 million if all 1,144 persons served a full 18 months at a re-opened State correctional facility (1,144 x 180 days x \$45 per day). Such an eventuality is highly unlikely. Costs shown above in the Fiscal Summary assume a reimbursement savings of \$1.5 million annually.

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

Cecil County advises that the local per diem rate for detention center inmates is \$90.27. In fiscal 2011, there were 70 local inmates with sentences greater than 12 months, but less than 18 months. Assuming that in all instances under the bill a savings of 180 days per person would occur, Cecil County correctional expenditures would decrease by \$1.1 million. A large portion of these cost savings would be offset by a lower State reimbursement.

Carroll County advises that the local per diem rate for detention center inmates is \$60.55. In fiscal 2011, there were 55 local inmates with sentences greater than 12 months, but less than 18 months. Assuming that in all instances under the bill a savings of 180 days per person would occur, Carroll County correctional expenditures would decrease by approximately \$600,000. A large portion of these cost savings would be offset by a lower State reimbursement.

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.

For purposes of comparison, the Maryland Correctional Institution – Jessup (MCIJ) had an average daily population in fiscal 2011 of 1,039 persons and operated on a State general fund budget of \$37.4 million, including 343 authorized positions.

For a similar bill in 2011, Frederick County indicated 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. However, no data was provided to support such a supposition.

Additional Information

Prior Introductions: SB 118 and HB 504 of 2011 received an unfavorable report from the Senate Judicial Proceedings Committee and the House Judiciary Committee, respectively. SB 349 of 2010 received an unfavorable report from the Senate Judicial Proceedings Committee.

Cross File: HB 528 (Delegate Dumais, *et al.*) - Judiciary.

Information Source(s): Carroll and Cecil 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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