SB 778

Department of Legislative Services

Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE

Senate Bill 778 (Senator Pugh)
Judicial Proceedings

Correctional Services - Inmate Welfare Fund - Telephone Financial Assistance

---

This bill requires the Department of Public Safety and Correctional Services (DPSCS) and the managing official of a local correctional facility with an inmate welfare fund to adopt regulations that require a portion of the profits derived from telephone commissions that accrue to the funds to be used for telephone calls that take place between an inmate and the minor child of an inmate. The bill specifies that distributions must be made according to the financial need of an inmate. DPSCS and each local correctional facility must report to the General Assembly by December 31 of each year on the nature and dollar amount of any expenditure from each fund.

Fiscal Summary

State Effect: Special fund revenues to the inmate welfare funds decrease by $866,600 in FY 2014 and by $1.2 million annually thereafter. DPSCS can handle the bill's reporting requirement with existing resources.

(in dollars)	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018
SF Revenue	($866,600)	($1,155,500)	($1,155,500)	($1,155,500)	($1,155,500)
Expenditure	0	0	0	0	0
Net Effect	($866,600)	($1,155,500)	($1,155,500)	($1,155,500)	($1,155,500)

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

Local Effect: The bill is likely to present some operational and administrative difficulties in most jurisdictions. For some, the monetary losses to the inmate welfare funds may prove significant, and some jurisdictions may need additional staff. However, to the extent that an inmate welfare fund currently exists within a county, most local correctional officials should be able to implement the bill's requirements with existing resources. **This bill may impose a mandate on a unit of local government.**

Small Business Effect: None.

Analysis

Current Law/Background: Generally, State agencies do not contract directly with telephone service providers. The Department of Budget and Management is responsible for the contracts relating to the use of telephones at all State facilities, including State correctional facilities. However, the inmate payphone contract is considered an Information Technology procurement. As such, the procurement is handled by DPSCS via a competitive sealed proposal process, which takes into consideration both technical and financial aspects of each proposal. The selected proposal must be reviewed and approved by the Department of Information Technology and the Board of Public Works. DPSCS facilities are allowed to retain commissions to support inmate services.

The contract governing inmate calls from DPSCS facilities is structured to be a revenue producing instrument for the agency. The funds are deposited into the inmate welfare funds, special funds in each State correctional facility that are used by DPSCS for items benefiting the inmate population, including education and vocational training, hygienic supplies for indigent inmates, salaries relating to clergy and medical staff, special recreational equipment and supplies, support of the inmate grievance process, and inmate legal support. Inmate telephone commissions deposited into the funds totaled nearly $5.0 million in fiscal 2012. The inmate welfare funds also receive about $2.0 million annually from commissary activities, vending machines, and other nontelephone related sources; in fiscal 2012, the total was $2.3 million.

Chapter 142 of 2002 (SB 271) authorized the establishment of an inmate welfare fund in each local correctional facility. Each fund is a special, continuing, nonlapsing fund that may be used only for goods and services that benefit the general inmate population, as defined by regulations adopted by the managing official of each facility. Each fund consists of profits derived from the sale of goods through the commissary operation and telephone and vending machine commissions and money received from other sources. Any investment earnings of a fund must be credited to the fund. The county chief financial officer is required to pay out money from each fund as approved by the county budget. In Dorchester County, pay outs may also be done by the managing official of the local correctional facility.

Money from the State general fund or a county’s general fund, including any federal funds, may not be transferred by budget amendment or otherwise to a county’s inmate welfare fund.

State Fiscal Effect: In fiscal 2012, the inmate welfare funds received $4,958,265 from commissions on inmate telephone calls. DPSCS assumes that 4,938 qualifying inmates, with one minor child, make two calls per month, lasting 15 minutes each. Based on that information, and assuming a collect call local rate of 65 cents per minute, the bill reduces deposits to the funds by $96,291 per month, and by $1,155,492 per year. In fiscal 2014, due to the bill's October 1, 2013 effective date, special fund revenues decrease by $866,619. Actual decreases may vary depending on the number of eligible inmates, the number and duration of calls, and the departmental methodology used to determine financial need.

Local Fiscal Effect: In 2012, the Maryland Correctional Administrators Association (MCAA) surveyed local correctional facilities regarding inmate telephone commissions and whether the profits from the commissions are deposited to an inmate welfare fund, a general fund, or another fund. Sixteen of the 23 counties responded, with 11 showing deposits to an inmate welfare fund. Ten of the jurisdictions (Allegany, Caroline, Dorchester, Garrett, Harford, Queen Anne's, St. Mary's, Talbot, Washington, and Wicomico counties) reported sending 100% of profits to an inmate welfare fund. Five jurisdictions (Baltimore, Calvert, Carroll, Charles, and Prince George's counties) reported sending 100% of profits to the general fund. Frederick County reported a 50/50 share between the general fund and an inmate welfare fund. It is possible that some of the jurisdictions that did not respond to the MCAA survey also have inmate welfare funds.

Montgomery County indicates that it is the only county in the State that accepts no commissions for its inmate telephone program. Under the bill, Montgomery County and any other county without an inmate welfare program would not have a fund to draw upon to be used for telephone calls that take place between an inmate and the minor child of an inmate.

Harford County estimates that the bill results in decreased telephone revenues for its inmate welfare fund of about $27,800 in fiscal 2014, growing to about $37,200 by fiscal 2018. Wicomico County estimates commission losses of only $2,000 annually, but reports that is needs to hire one additional correctional officer to handle verification and reporting responsibilities.

It is likely that the bill presents some operational and administrative difficulties for correctional facilities in most jurisdictions. However, to the extent that an inmate welfare fund currently exists within the county, most local correctional officials should be able to implement the bill's requirements with existing resources.

Additional Information

Prior Introductions: Similar bills were introduced in 2012 addressing only local correctional facilities. SB 910 of 2012 received a hearing by the Senate Judicial Proceedings Committee, but no further action was taken. Its cross file, HB 1147, received a hearing in the House Judiciary Committee but was subsequently withdrawn.

Cross File: Although HB 1138 (Delegate Carter, *et al.* – Judiciary) is identified as a cross file, it is different.

Information Source(s): Harford and Wicomico counties, Maryland Correctional Administrators Association, Baltimore City, Department of Public Safety and Correctional Services, Department of Legislative Services

Fiscal Note History: First Reader - February 25, 2013
mc/lgc

Analysis by: Guy G. Cherry

Direct Inquiries to:
(410) 946-5510
(301) 970-5510