

Department of Legislative Services
Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE

Senate Bill 581 (Senators Shank and Jacobs)
Judicial Proceedings

Correctional Services - Diminution Credits - Sentence of 30 Days or Less

This bill specifies that an inmate serving a sentence of 30 days or less may not be allowed diminution credit deductions from the inmate's term of confinement for any period of presentence or postsentence confinement in a State or local correctional facility. The bill may not be construed to require an inmate to serve a longer sentence of confinement in a local correctional facility than is authorized by the statute under which the inmate was convicted. The bill is also required to be construed prospectively only.

Fiscal Summary

State Effect: Potential significant increase in general fund expenditures for State correctional operations in Baltimore City. Revenues are not affected.

Local Effect: Local correctional costs are likely to increase in most jurisdictions by varying amounts. **This bill imposes a mandate on a unit of local government.**

Small Business Effect: None.

Analysis

Current Law: Diminution credits are deducted from an inmate's "term of confinement," which is defined as (1) the length of the sentence, for a single sentence or (2) the period from the first day of the sentence that begins first through the last day of the sentence that ends last, for concurrent sentences, partially concurrent sentences, consecutive sentences, or a combination of concurrent and consecutive sentences.

Diminution credits are made for good conduct, work tasks, education, and special projects. Good conduct credit is awarded at the rate of five days per month if the inmate's term of confinement includes a sentence for a crime of violence or distribution of controlled dangerous substances. Good conduct credit is awarded at the rate of 10 days per month for all other inmates (except for those inmates who are statutorily prohibited from earning diminution credits). (For sentences imposed before October 1, 1992, good conduct credits are awarded at a rate of five days per month regardless of the offense.)

Credits for work tasks and education may be awarded at the rate of up to five days per month. Special project credit may be awarded at the rate of up to 10 days per month. An inmate may not be allowed a total deduction, including good conduct credit, of more than 20 days per month.

An inmate in a local correctional facility may receive deductions of five days per calendar month for (1) good conduct; (2) industrial, agricultural, or administrative tasks; (3) educational and training courses; (4) work projects; and (5) special programs. Inmates are allowed a deduction in advance from the term of confinement. If an inmate violates a rule of discipline, however, diminution credits may be revoked. An inmate is awarded five days credit for each month of presentence confinement as long as the inmate does not violate the disciplinary rules and works when the opportunity to work is available.

As in the State system, a local inmate serving a sentence for first or second degree rape or sexual offense against a victim younger than age 16, or a second or subsequent conviction of third degree sexual offense against a victim younger than age 16 may not earn diminution credits. Diminution credits awarded to an inmate of a local correctional facility who is later transferred to a State facility must be applied to the inmate's term of confinement.

Background: Like all local detention centers in Maryland, the Baltimore City Detention Center (BCDC) houses both pretrial detainees and short-term sentenced offenders. BCDC, however, is a unique facility in Maryland since it is the only local detention center operated by the State. This provides the Department of Public Safety and Correctional Services (DPSCS) the option of relocating offenders to other State correctional facilities, if necessary, to meet population demands. As such, the short-term sentenced offender population is a relatively small portion of the total offender population located at the Baltimore detention facilities. BCDC actually has a higher percentage of pretrial detainees than any other jurisdiction in the State, with approximately 86% of its population in pretrial status. Pretrial detainees account for 57% of the local detention population for the other 23 jurisdictions in the State.

Since fiscal 2008, BCDC has seen a decline in its total population, particularly among pretrial detainees. The overall length of stay for offenders housed in Baltimore City detention facilities, including the Central Booking and Intake Facility (CBIF), increased from 37.3 days in fiscal 2008 to 42.0 days in fiscal 2012.

In addition, the percent of pretrial detainees held over 90 days has increased significantly in recent years. Prior to fiscal 2011, approximately 26% of the pretrial population was held beyond 90 days, on par with the population of the other 23 local jurisdictions. In fiscal 2011 and 2012, nearly 45% of the pretrial population was detained for more than 90 days. A point-in-time analysis of the population from May 30, 2013, revealed that 37% of the population had been held at the detention center for longer than six months. To date, DPSCS has been unable to identify the cause of the increase.

State Expenditures: The Division of Pretrial and Detention Services (DPDS) is a unit within DPSCS that is responsible for CBIF and BCDC. Because an inmate at a State correctional facility may earn as many as 20 diminution credit deductions per month, the bill directly impacts operations at CBIF and BCDC. Extending the length of stay of detainees and inmates at these two facilities increases the daily population of both facilities. Although DPDS is not able to quantify this impact, potential increases in population increases DPDS's operational costs. The current daily cost to house a person at CBIF is \$154, and the current daily cost to house a person at BCDC is \$81.

Due to increased daily populations, the bill also results in increases in overtime costs for correctional officers assigned to CBIF and BCDC. This could eventually result in the need for additional correctional officers.

Local Expenditures: 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 State correctional facility. Prior to fiscal 2010, the State reimbursed counties for part of their incarceration costs, on a per diem basis, after a person had 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 the State but are confined in a local facility. The State does not pay for pretrial detention time in a local correctional facility.

Local correctional costs are likely to increase in most jurisdictions by varying amounts. Although Charles County reports that the bill has no fiscal impact, Frederick County estimates an annual increase in correctional costs of about \$143,600, and Montgomery County estimates annual increases of about \$500,000 in operating costs and \$250,000 in staffing/overtime costs.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Charles, Frederick, and Montgomery counties; Maryland Association of Counties; Department of Public Safety and Correctional Services; Department of Legislative Services

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