

Department of Legislative Services
 Maryland General Assembly
 2017 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 944 (Delegate C. Howard)
 Judiciary

Correctional Services - Prison Artists Marketplace Program - Establishment

This bill requires the Department of Public Safety and Correctional Services (DPSCS) to establish a Prison Artists Marketplace Program to display and sell artistic works created by inmates during a term of incarceration. The artistic works must be displayed and sold at a marketplace at Druid Hill Park in Baltimore City. The sale proceeds must be distributed to (1) DPSCS to defray a portion of the program costs and (2) the bank account of the inmate whose artistic work was sold. DPSCS must adopt regulations to implement the bill. The bill also expresses the intent of the General Assembly that the program must, to the extent practicable, employ inmates who are eligible for work release.

Fiscal Summary

State Effect: General fund expenditures increase by \$187,200 in FY 2018 for DPSCS to hire staff, pay for rental space, and purchase equipment necessary to run the program. Future year expenditures reflect annualization. Potential minimal increase in general/special fund revenues from the sale of artistic works under the program.

(in dollars)	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
GF/SF Rev.	-	-	-	-	-
GF Expenditure	\$187,200	\$230,600	\$241,100	\$252,200	\$263,900
Net Effect	(\$187,200)	(\$230,600)	(\$241,100)	(\$252,200)	(\$263,900)

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

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law:

Notoriety of Crimes Contract

While there is no specific prohibition on an inmate displaying or selling artistic works during a term of incarceration, a defendant is generally prohibited from profiting from the crime or the publicity relating to the crime (generally referred to as “Son of Sam” laws). The Criminal Procedure Article requires a person who makes a “notoriety of crimes contract” with a defendant or a representative or assignee of that defendant to submit to the Office of the Attorney General a copy of all written terms and a summary of all oral terms of the notoriety of crimes contract and pay over to the Attorney General any money or other consideration not subject to an order of restitution that by the terms of the contract would otherwise be owed to the defendant or a representative or assignee of the defendant. A “notoriety of crimes contract” means a contract or other agreement with a defendant, or a representative or assignee of a defendant, with respect to:

- the reenactment of a crime in a movie, book, magazine article, tape recording, phonograph record, radio or television presentation, or live entertainment of any kind;
- the expression of the defendant’s thoughts, feelings, opinions, or emotions regarding a crime involving or causing personal injury, death, or property loss as a direct result of the crime; or
- the payment or exchange of money or other consideration or the proceeds or profits that directly or indirectly result from a crime, a sentence, or the notoriety of a crime or sentence.

Distribution of Inmate Earnings

DPSCS must collect an inmate’s earnings and (1) if required, reimburse the county or State for the cost of providing food, lodging, and clothing to the inmate; (2) pay court-ordered payments for support of dependents; (3) pay court-ordered payments for restitution; and (4) pay compensation for victims of crime, as specified. For an inmate participating in the Private Sector/Prison Industry Enhancement Certification Program of the U.S. Department of Justice (Bureau of Justice Assistance), DPSCS must withhold 20% of the inmate’s earnings for compensation to victims of crime, in accordance with the requirements of the program. Beginning October 1, 2017, Chapter 515 of 2016 requires DPSCS to withhold 25% of an inmate’s earnings for compensation to victims of crime until the judgment is satisfied, if the inmate is subject to an unsatisfied judgment of restitution but not a participant in the certification program.

If a court has ordered an inmate to pay restitution, DPSCS must forward withheld money to the Criminal Injuries Compensation Fund (CICF). If an inmate is not subject to a judgment of restitution or the judgment of restitution is satisfied from the money withheld, DPSCS must pay 50% into CICF and 50% into the State Victims of Crime Fund. If money remains after payment of any required restitution or other contributions, DPSCS must credit the remaining earnings to the inmate's account and pay the balance in the inmate's account to the inmate within 15 days after the inmate is released.

Background: Since 2005, DPSCS has hosted a series of art exhibits/auctions featuring *donated* inmate art. Pieces selected for the exhibits/auctions come from one or more institutions and are sold or auctioned off with the proceeds benefiting organizations that provide services for victims of crime, including the Maryland Crime Victims Resource Center, domestic violence organizations, and organizations established to assist victims of human trafficking. The inmate art exhibits/auctions have been viewed as a way of giving back to the community.

State Fiscal Effect: General fund expenditures increase by \$187,168 in fiscal 2018, which accounts for the bill's October 1, 2017 effective date. This estimate reflects the cost of hiring an administrator and two administrative officers to assess, price, catalog, and prepare inmate art for display and sale. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses, including rental space at the Druid Hill Park farmer's market and display equipment.

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Salaries and Fringe Benefits	\$168,036
Other Operating Expenses	<u>19,132</u>
Total FY 2018 State Expenditures	\$187,168

Future year expenditures reflect full salaries with annual increases and employee turnover and ongoing operating expenses

To the extent that proceeds from the sale of the artistic works in the program are not subject to payment to the Office of the Attorney General, costs for the program may be defrayed by a portion of the proceeds from the art sales. In addition, special fund revenues may increase minimally as a result of payments made to certain special funds in accordance with current law provisions relating to the distribution of inmate earnings.

Additional Information

Prior Introductions: None.

Cross File: SB 469 (Senator Robinson, *et al.*) - Judicial Proceedings.

Information Source(s): Department of Public Safety and Correctional Services;
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md/lgc

Analysis by: Shirleen M. E. Pilgrim

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