

Department of Legislative Services
Maryland General Assembly
2020 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 922

(Senator Carter)

Judicial Proceedings

Judiciary

Correctional Services - Diminution Credits - Education

This bill authorizes diminution credits to reduce the term of confinement of an inmate who successfully obtains (1) an intermediate high academic certificate; (2) no more than one certificate of completion of a technical or vocational training program, as specified; (3) a State High School Diploma by Examination; (4) a high school diploma; (5) an associate degree; or (6) a bachelor's degree. The deduction allowed is 60 days per program completed and is in addition to any other deduction awarded; however, for an inmate serving a sentence for a crime of violence, the deduction may not exceed 40 days. An inmate serving a sentence for a sexual offense requiring registration on the Maryland Sex Offender Registry is not entitled to the diminution credits provided under the bill. The Commissioner of Correction must establish a uniform system of deductions and participation criteria allowed under the bill. The bill applies prospectively and may not be applied or interpreted to have any effect on or application to any award of diminution credit before the bill's October 1, 2020 effective date.

Fiscal Summary

State Effect: Minimal decrease in incarceration expenditures for the Department of Public Safety and Correctional Services (DPSCS). Revenues are not affected.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law:

Diminution Credits

Generally, inmates sentenced to a State correctional facility are entitled to earn diminution of confinement credits to reduce the lengths of their incarcerations. The following types of inmates may not earn diminution credits:

- an inmate who is serving a sentence for first- or second-degree rape against a victim younger than 16;
- an inmate who is serving a sentence for first- or second-degree sexual offense, as the offenses existed before October 1, 2017, against a victim younger than 16;
- an inmate who is serving a repeat sentence for third-degree sexual offense against a victim younger than 16; and
- an inmate imprisoned for a lifetime sexual offender supervision violation.

In addition, an inmate whose mandatory supervision release has been revoked may not be awarded any new diminution credits on the term of confinement for which the inmate was on mandatory supervision release.

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 or programs.

For sentences imposed before October 1, 1992: Good conduct credits are awarded at a rate of five days per month regardless of the offense.

For sentences imposed between October 1, 1992, and October 1, 2017: Good conduct credits are awarded at the rate of 5 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 credits are 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). Credits for work tasks and education may be awarded at the rate of up to 5 days per month. Special project credits may be awarded at the rate of up to 10 days per month.

Such inmates may not be allowed a total deduction, including good conduct credits, of more than 20 days per month.

For sentences imposed on October 1, 2017, or later: Chapter 515 of 2016 increased the maximum possible deduction for diminution credits from 20 days to 30 days per calendar month, except for inmates serving a sentence in a State correctional facility for a crime of violence, specified sexual offenses, or specified volume or kingpin drug offenses. Also, except for that same group of inmates, the deduction for special selected work projects or other special programs, including recidivism reduction programming, increased from 10 to 20 days per calendar month. In addition, the maximum deduction for diminution credits increased for an individual who is serving a sentence in a local correctional facility (for a crime other than a crime of violence or specified volume drug offenses) from 5 to 10 days per month.

Crimes of Violence Under § 14-101 of the Criminal Law Article

Section 14-101(a) of the Criminal Law Article defines a “crime of violence” as (1) abduction; (2) arson in the first degree; (3) kidnapping; (4) manslaughter, except involuntary manslaughter; (5) mayhem; (6) maiming; (7) murder; (8) rape; (9) robbery; (10) carjacking (including armed carjacking); (11) first- and second-degree sexual offenses; (12) use of a firearm in the commission of a felony or other crime of violence, except possession with intent to distribute a controlled dangerous substance; (13) child abuse in the first degree; (14) sexual abuse of a minor younger than age 13 under specified circumstances; (15) home invasion; (16) felony sex trafficking and forced marriage; (17) an attempt to commit crimes (1) through (16); (18) continuing course of certain sexual conduct with a child; (19) assault in the first degree; and (20) assault with intent to murder, rape, rob, or commit a sexual offense in the first or second degree.

Sex Offender Registry

Generally, a person convicted of a sex crime or other specified crime in Maryland, including kidnapping and false imprisonment under specified circumstances, is required to register with the State sex offender registry upon release from prison or release from court if the person did not receive a prison sentence. Offenders who are required to register in other states and who come to Maryland are required to register upon entering Maryland. Offenders from other states who may not be required to register in the home state are required to register in Maryland if the crime would have required registration in Maryland if committed in Maryland. The registry is maintained by DPSCS.

A Tier I sex offender must register every six months for 15 years, a Tier II sex offender must register every six months for 25 years, and a Tier III sex offender must register

every three months for life. If a Tier I sex offender meets specified requirements, the registration term may be reduced to 10 years.

State Expenditures: DPSCS advises that currently there are approximately 298 inmates in a diploma or certificate bearing program and 1,427 inmates enrolled in an occupational or vocational program requiring at least 600 hours of coursework. DPSCS also advises that an inmate is generally enrolled in a qualifying program for between one to three years. However, it is unlikely that a significant number of inmates who complete a qualifying program would be eligible for the additional diminution credits multiple times during a period of incarceration. Thus, it is also unlikely that a significant number of inmates receive the maximum of 60 diminution credits more than once. As a result, general fund expenditures likely decrease minimally.

Persons serving a sentence longer than 18 months are incarcerated in State correctional facilities. Currently, the average total cost per inmate, including overhead, is estimated at \$3,700 per month. 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. The State provides assistance to the counties for locally sentenced inmates and for (1) inmates who are sentenced to and awaiting transfer to the State correctional system; (2) sentenced inmates confined in a local detention center between 12 and 18 months; and (3) inmates who have been sentenced to the custody of the State but are confined in or who receive reentry or other prerelease programming and services from 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 State correctional facilities. The Baltimore Pretrial Complex, a State-operated facility, is used primarily for pretrial detentions.

DPSCS reports that in order to monitor and track the earning of diminution credits pursuant to the bill, it needs to (1) hire eight commitment records specialists (at a cost of approximately \$500,000 annually) or (2) update its database to automate the process, at a cost of approximately \$100,000 in fiscal 2021 only. The Department of Legislative Services advises that it is unclear at this time that the bill's changes require new staff or an updated database. For similar legislation introduced in 2019, DPSCS advised that it could use existing resources to implement the bill.

Additional Information

Prior Introductions: SB 621 of 2019, a similar bill, passed the Senate with amendments and received a hearing in the House Judicial Proceedings Committee, but no further action was taken. Its cross file, HB 294, received a hearing in the House Judiciary Committee, but no further action was taken. SB 1113 of 2018, a similar bill, received an unfavorable report from the Senate Judicial Proceedings Committee. Its cross file, HB 295, received a hearing in the House Judiciary Committee but was withdrawn.

Designated Cross File: HB 812 (Delegate Wilkins, *et al.*) - Judiciary.

Information Source(s): Maryland State Department of Education; Department of Public Safety and Correctional Services; Department of Legislative Services

Fiscal Note History: First Reader - February 21, 2020
rh/lgc Third Reader - March 17, 2020
Revised - Amendment(s) - March 17, 2020

Analysis by: Thomas S. Elder

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