

Department of Legislative Services
Maryland General Assembly
2023 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 877
Judiciary

(Delegate Feldmark)

Correctional Services - Incarcerated Individuals - Intake and Release (Reentry
Success Act)

This bill requires the Division of Correction (DOC) to (1) provide screening for and access to specified private mediation; (2) provide specified forms to and work with an incarcerated individual to ensure the availability of specified documents and benefits at the time of an incarcerated individual's release from confinement; and (3) provide specified public transportation passes and medication at the time of release. The Commissioner of Correction must adopt regulations to carry out the bill's requirements.

Fiscal Summary

State Effect: General fund expenditures for DOC increase by an indeterminate, but likely significant, amount beginning in FY 2024. Potential minimal increase in Transportation Trust Fund (TTF) expenditures, as discussed below. TTF revenues may decrease, as discussed below.

Local Effect: The bill is not anticipated to materially affect local operations or finances.

Small Business Effect: None.

Analysis

Bill Summary: For an incarcerated individual sentenced to incarceration at a State correctional facility for greater than one year, DOC must, one year before the incarcerated individual's anticipated release, provide screening for and access to private mediation between the incarcerated individual and an individual identified by the incarcerated individual as essential for the incarcerated individual's successful reentry into society.

Following the identification of such an individual, DOC must conduct a screening of the identified individual to ensure that the identified individual (1) is not the victim of a crime committed by the incarcerated individual; (2) has not requested victim notification regarding the incarcerated individual; or (3) does not have a protective order, a no-contact order, or a stay-away order entered against the incarcerated individual.

If an identified individual falls into one of these categories, the division may not approve mediation between an incarcerated individual and an identified individual.

If it is not precluded from approving mediation, DOC may engage a mediator to facilitate mediation between the incarcerated individual and the identified individual. If an identified individual agrees to discuss mediation, the mediator or mediation program staff must conduct additional screening to ensure that participation in mediation by the identified individual is voluntary and that mediation is appropriate. If the mediator or mediation program staff determines that mediation is appropriate and the identified individual agrees to mediation, the mediator must contact DOC to coordinate mediation. Mediation must be facilitated by a mediator who meets specified requirements. DOC staff may visually observe mediation but may not be present in the room or aurally monitor the mediation.

Six months before the anticipated release from confinement of an incarcerated individual, DOC must provide the appropriate forms to and work with an incarcerated individual to ensure that, at the time of release from confinement, an incarcerated individual has access to a photo identification (ID) card issued by the Motor Vehicle Administration (MVA) or a driver's license, Food Supplement Program benefits (for incarcerated individuals who qualify), and any Medicaid benefits (for incarcerated individuals who qualify).

At the time of release, DOC must provide an incarcerated individual with public transportation passes adequate for 90 days of travel and a one-month supply of any medication prescribed to the incarcerated individual. On request of DOC, any State transit system or transit system funded in part by the State must provide public transportation passes for use by incarcerated individuals at the time of release at no cost to DOC.

Current Law: The Commissioner of Correction must issue an ID card to an inmate before release from confinement in a State correctional facility. The ID card must meet the requirements for secondary identification for the purpose of an ID card issued by MVA under § 12-301 of the Transportation Article. In addition, pursuant to Chapter 514 of 2020, the Commissioner of Correction must obtain an inmate's birth certificate and Social Security card after taking custody of an inmate (unless the inmate does not consent).

Identification Cards

On application, MVA must issue an ID card to any applicant who:

- is a resident of the State;
- does not have a driver's license;
- presents a birth certificate or other acceptable proof of age and identity;
- provides satisfactory documentary evidence that the applicant has lawful status;
- provides satisfactory documentary evidence that (1) the applicant has a valid Social Security number by presenting the Social Security card (or specified documents if the card is not available) or (2) the applicant is not eligible for a Social Security number; and
- presents a completed application for an ID card on the appropriate form.

The fee for an ID card is \$15 for an applicant younger than age 18 and \$24 for an applicant age 18 or older. An ID card for an individual experiencing homelessness is \$1. A duplicate or correction ID card is \$20. MVA is not required to charge a fee in specified circumstances.

An ID card must be of the size and design MVA requires and tamperproof, to the extent possible. The card must contain the following information:

- the name, address, birth date, sex, and description of the applicant;
- a color photograph taken by the appropriate procedure required by MVA;
- the expiration date of the ID card;
- the applicant's signature; and
- the signature and seal of the issuing agent.

An ID card may be used as legal identification of the individual to whom it is issued for any purpose.

An ID card issued to an applicant who is age 18 or older is valid for eight years; for an applicant younger than age 18, the ID card is valid for five years. An ID card must be surrendered by the holder upon being issued a Maryland driver's license.

Mental Illness Medications

The Department of Public Safety and Correctional Services (DPSCS) must provide an inmate who has been sentenced to an incarceration term with DOC and who has been diagnosed with a mental illness with access to a 30-day supply of medication for the mental illness upon release of the inmate.

A 30-day supply of a mental health medication may only be provided if the treating physician determines that the released inmate's possession of the medication in the

prescribed quantity is in the inmate's best interest and will not constitute a danger to the inmate. Immunity from liability is granted for all employees or agents of DPSCS or a local correctional facility, including a physician or corporate entity providing medical services to inmates, for the issuance or prescription of medication to an inmate upon the inmate's release. This immunity applies notwithstanding that the released inmate is no longer under the care or supervision of the prescribing physician and may be without medical supervision for the period for which the medication has been administered.

State Fiscal Effect:

Department of Public Safety and Correctional Services and the Judiciary

General fund expenditures for DOC increase, likely significantly, to comply with the bill's requirements (particularly the requirement to provide screening for and access to mediation), as discussed below. A reliable estimate of the increase in costs cannot be made at this time. Although DPSCS estimates significant costs – in the neighborhood of \$1.0 million annually – DPSCS did not provide additional information regarding its estimate.

Mediation: The Judiciary provides performance-based grant funding to community mediation programs throughout the State. Among other conflict resolution services, these programs provide reentry mediation at no cost to participants or to DOC. Any increase in referrals to community mediation due to the bill could increase service levels for some programs and possibly make the programs eligible for additional grant funds. The exact amount is difficult to project due to uncertainty in the number of additional mediation and intakes that may be generated; however, the bill likely does not have a significant impact on the Judiciary.

DOC likely incurs costs for mediation (if not otherwise covered by grant funding from the Judiciary) and additional staff to provide escorts to incarcerated individuals participating in mediation; however, without actual experience under the bill, such costs cannot be reliably estimated at this time. DOC advises that it has offered mediation services in the past at a cost of \$100 to \$250 per session.

Medication: DOC also likely incurs costs to provide a one-month supply of medication to an incarcerated individual at the time of release; however, without actual experience under the bill, such costs cannot be reliably estimated at this time.

Public Transportation Passes: DOC may choose various options for the required transportation passes depending on where the incarcerated individual is released from or planning to live (for example, local transit system passes, Maryland Transit Administration (MTA), or Washington Metropolitan Area Transit Authority (WMATA) transit passes).

On request of DOC, any State transit system or transit system funded in part by the State (which includes WMATA) must provide public transportation passes for use by incarcerated individuals at the time of release *at no cost to DOC*. As a result, general fund expenditures for DOC to provide transportation passes only increase to the extent that DOC provides transportation passes *from a system that is not funded by the State*; however, without actual experience under the bill, it is not possible to reliably estimate the extent of any such costs.

Other: DOC can adopt the required regulations with existing budgeted resources.

Maryland Transit Administration

Foregone Revenues: TTF revenues decrease to the extent that MTA must provide transportation passes (on request of DOC) when otherwise the individuals would have paid for the passes; under the bill, MTA must do so at no cost to DOC. If an individual, absent the bill, would not have purchased a transit pass, then there is no revenue loss. It is unclear at this time how many and how often incarcerated individuals actually use public transit within 90 days after release, and MTA and DOC were not able to provide such an estimate. Therefore, a precise estimate regarding any potential decrease in TTF revenues cannot be determined without actual experience under the bill.

The information below illustrates examples of the potential costs for an individual to purchase specified MTA transit passes, and the associated foregone TTF revenue *if such individuals would otherwise purchase the passes in the absence of the bill*.

- Monthly MTA passes that provide unlimited travel on buses, light rail, Metro subway, and Baltimore neighborhood shuttles (not including MARC service, commuter bus service, or Express BusLink service) cost \$77 for a monthly pass (or \$231 for three monthly passes for travel for 90 days). However, MTA transit passes generally only work in the Baltimore area.
- Monthly MARC/commuter bus passes that provide unlimited travel without zone limitations costs \$459 (or \$1,377 for three monthly passes for travel for 90 days).

Administrative Expenditures: The most efficient method for MTA to provide passes for incarcerated individuals at the time of release is to give the passes directly to DOC and for DOC to hand out the passes directly to the individuals. However, MTA still needs to manage and track all passes provided; therefore, TTF expenditures may increase minimally for MTA to administer the program.

Other Agencies

The Maryland Department of Health (MDH) can handle the bill's requirements with existing budgeted resources. MDH advises that it already works to determine Medicaid eligibility for incarcerated individuals within 30 to 120 days prior to release.

MVA can handle the bill's requirements with existing budgeted resources. MVA already has a program in place to work with DOC to provide IDs to incarcerated individuals before release.

The Department of Human Services advises that the bill has no fiscal impact on the department.

Additional Information

Prior Introductions: Similar legislation has been introduced within the last three years. See HB 1233 of 2021 and HB 1463 of 2020.

Designated Cross File: None.

Information Source(s): Maryland Association of Counties; Maryland Municipal League; Judiciary (Administrative Office of the Courts); Maryland Department of Health; Department of Human Services; Department of Public Safety and Correctional Services; Maryland Department of Transportation; Department of Legislative Services

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