

Department of Legislative Services
Maryland General Assembly
2025 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1358
Judiciary

(Delegate Reilly, *et al.*)

Criminal Procedure - Home Detention - Time Served Credits

This bill prohibits the Division of Correction (DOC) from applying credit for any portion of the time served in a home detention program toward any sentence of an incarcerated individual convicted of a violation of the conditions of the incarcerated individual's placement in the home detention program. In addition, the bill requires the court to consider the nature and circumstances of any pending cases of a defendant in determining the appropriate conditions of pretrial release. Finally, the bill establishes that a defendant who is placed on home detention as a condition of pretrial release and is returned to the custody of a correctional facility for violating a condition of pretrial release is not eligible for the application of credit against the sentence for time spent in custody.

Fiscal Summary

State Effect: The bill's changes are not anticipated to materially affect State finances or operations.

Local Effect: The bill's changes are not anticipated to materially affect local government finances or operations.

Small Business Effect: None.

Analysis

Current Law:

Home Detention

The Commissioner of Correction, with the approval of the Secretary of Public Safety and Correctional Services, is authorized to establish a home detention program under which an

offender may live in an approved private dwelling. Offenders in the program must be supervised by electronic devices and direct contact by employees of DOC. An incarcerated individual may be placed in the program if (1) the incarcerated individual agrees to waive the individual's right to contest extradition; (2) the Commissioner of Correction or the Commissioner's designee approves the placement; and (3) the incarcerated individual has served any statutorily imposed minimum sentence, less the allowances for diminution of the incarcerated individual's term of confinement, as specified.

An incarcerated individual is not eligible for the home detention program if the incarcerated individual (1) is serving a life sentence; (2) has been found guilty of a crime of violence (as defined in § 14-101 of the Criminal Law Article) unless five years have elapsed since expiration of the sentence for the crime of violence or the incarcerated individual is within 90 days of release on parole or mandatory supervision; or (3) has been found guilty of the crime of child abuse (under § 3-601 or § 3-602 of the Criminal Law Article) or escape (under § 9-404 of the Criminal Law Article). The Commissioner or the Commissioner's designee may remove an incarcerated individual from the program at any time and for any reason.

While in the program, an offender must remain in the approved dwelling except to go (1) with the program administrator's approval, to the offender's approved place of employment, to a medical or mental health treatment, or to offices of the Department of Public Safety and Correctional Services; (2) as required by legitimate medical or other emergencies; or (3) as otherwise allowed and directed by the program administrator. While participating in the program, an offender is responsible for the offender's living expenses, including those for food, clothing, medical care, shelter, and utilities.

To satisfy court-ordered restitution that an incarcerated individual in the program owes, DOC must determine the amount of reasonable payments and collect and disburse the payments. DOC must establish a reasonable fee for the cost of electronic supervision and collect the fee from each incarcerated individual in the program. However, if DOC determines that an incarcerated individual cannot afford to pay the established fee, DOC may exempt the incarcerated individual wholly or partly from the fee.

An incarcerated individual who willfully violates the conditions of the incarcerated individual's placement in the program is guilty of a misdemeanor and on conviction is subject to imprisonment for up to one year. The sentence may be to the jurisdiction of DOC.

Commission of any crime by an incarcerated individual constitutes a violation of the conditions of the incarcerated individual's placement in the program. An incarcerated individual who knowingly violates requirements relating to restrictions on movement is

guilty of escape and on conviction subject to maximum penalties of 10 years imprisonment and/or or a \$20,000 fine.

An incarcerated individual's participation in the program does not affect the incarcerated individual's eligibility for parole, diminution credits, or other privileges available by law to incarcerated individuals in the custody of the Commissioner of Correction.

Credit Against Sentence for Time Spent in Custody

Generally, a defendant who is convicted and sentenced must receive credit against and a reduction of the term of a definite or life sentence, or the minimum and maximum terms of an indeterminate sentence, for all time spent in the custody of a correctional facility, hospital, facility for persons with mental disorders, or other unit because of the charge for which the sentence is imposed, or the conduct on which the charge is based. However, a parolee who is returned to DOC custody because of a subsequent crime and is confined before being sentenced for the subsequent crime is not eligible for this credit.

If a defendant is in custody because of a charge that results in a dismissal or acquittal, the time that would have been credited if a sentence had been imposed must be credited against any sentence that is based on a charge for which a warrant or commitment was filed during that custody. In any other case, the sentencing court may apply credit against a sentence for time spent in custody for another charge or crime.

A defendant whose sentence is set aside because of a direct or collateral attack and who is reprosecuted or resentenced for the same crime or for another crime based on the same transaction must receive credit against and a reduction of the term of a definite or life sentence, or the minimum and maximum terms of an indeterminate sentence, for all time spent in custody under the prior sentence, including credit applied against the prior sentence, as specified.

A defendant who is serving multiple sentences, one of which is set aside as the result of a direct or collateral attack, must receive credit against and a reduction of the remaining term of a definite or life sentence, or the remaining minimum and maximum terms of an indeterminate sentence, for all time spent in custody under the sentence set aside, including credit applied against the sentence set aside, as specified.

The court must award required credit at the time of sentencing. After having communicated with the parties, the court must tell the defendant and must state on the record the amount of the credit and the facts on which the credit is based.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts); Office of the Public Defender; Department of Public Safety and Correctional Services; Department of Legislative Services

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km/jkb

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