

Department of Legislative Services
Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE

House Bill 851 (Delegate Anderson, *et al.*)
Judiciary

Local Correctional Facilities - Diminution Credits - Good Conduct

This bill increases the monthly presentence and postsentence good conduct diminution credit for an inmate at a local correctional facility from 5 to 10 days per month. The bill also provides that, for postsentence good conduct diminution credit calculations, if the inmate's term of confinement is for a crime of violence or a charge involving specified controlled dangerous substances offenses, the credits must be calculated at a rate of 5 days per month. The bill's provisions must be applied prospectively from October 1, 2008.

Fiscal Summary

State Effect: Potential annual general fund savings in the variable costs of incarceration of about \$532,800 annually beginning in FY 2010. This does not include additional potential minimal savings in State reimbursement payments for the local correctional costs of some inmates incarcerated in local correctional facilities.

Local Effect: Potential minimal savings in inmate costs for some jurisdictions. The bill makes good conduct diminution credits at local facilities consistent with such credits at a Division of Correction (DOC) facility.

Small Business Effect: None.

Analysis

Current Law: An inmate in a local correctional facility may receive deductions of five days per calendar month for: good conduct; industrial, agricultural, or administrative tasks; educational and training courses; work projects; and special programs. The use of diminution credits to reduce an inmate's term of incarceration is a means of recognizing an inmate's good

behavior. 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.

For DOC inmates whose terms of confinement include consecutive or concurrent sentences for a crime of violence or a crime involving a controlled dangerous substance, the deduction in the sentence for good conduct is calculated at 5 days per calendar month, which are awarded in advance. For all other inmates the deduction is calculated at 10 days per calendar month. An inmate may also receive deductions calculated at 5 days per calendar month for work tasks and education and 10 days per calendar month for special projects. These credits are awarded as they are earned. However, the total deduction may not exceed 20 days per calendar month.

When an inmate's total number of diminution credits is equal to the remainder of sentence, including consideration for any losses of credits, the inmate is eligible for mandatory supervision release.

A deduction may not be allowed for a period during which an inmate does not receive credit for service of the inmate's term of confinement, including a period: (1) during which the inmate's sentence is stayed; (2) during which the inmate is not in DOC custody because of escape; or (3) for which the Maryland Parole Commission has declined to grant credit after revocation of parole or mandatory supervision.

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 DOC. The State reimburses counties for part of their incarceration costs, on a per diem basis, after a person has served 90 days. State per diem reimbursements for fiscal 2009 are estimated to range from \$19 to \$71 per inmate depending upon the jurisdiction. Persons sentenced to such a term in Baltimore City are generally incarcerated in DOC facilities. The Baltimore City Detention Center, a State-operated facility, is used primarily for pretrial detentions.

State Expenditures: Persons serving a sentence longer than 18 months are incarcerated in DOC facilities. Currently, the average total cost per inmate, including overhead, is estimated at \$2,600 per month. Excluding overhead, the average cost of housing a new DOC inmate (including medical care and variable costs) is \$526 per month. Excluding medical care, the average variable costs total \$148 per month.

Any future savings in incarceration costs for DOC would accrue from the application of increased presentence good conduct credits earned at a local correctional facility being eventually applied to a postsentence term served in a DOC facility.

Assuming variable inmate costs of \$148 per month because medical costs would likely not be affected, and DOC's estimate that this bill could produce a bed savings of 300 beds per year, Legislative Services advises that this bill could reduce State inmate costs by about \$532,800 annually, beginning after fiscal 2009 (300 x \$148 x 12).

The bill would also tend to reduce State reimbursements to the counties for per diem incarceration costs. Because reimbursements for most counties are at 50% of actual costs, and only occur after a person has served 90 days, such a savings is not expected to be significant statewide.

Local Expenditures: Per day, there are approximately 4,000 inmates serving post-conviction sentences in local correctional facilities and about 8,500 inmates in pretrial confinement. Counties pay the full cost of incarceration for people in their facilities for the first 90 days of the sentence, plus part of the per diem cost after 90 days. Per diem operating costs of local detention facilities are expected to range from \$40 to \$129 per inmate in fiscal 2009.

Because this bill would double the good conduct diminution credit earning potential for inmates in local correctional facilities, it could reduce the number of beds needed per day at a local facility and, thereby, provide an overall savings in correctional costs. Such an impact would tend to vary by jurisdiction and cannot be reliably calculated for any jurisdiction. However, it is not expected to have a significant impact on local correctional costs statewide.

Additional Information

Prior Introductions: HB 1195 of 2007, a departmental bill, passed the House and received an unfavorable report from the Senate Judicial Proceedings Committee. HB 540 of 2006 received an unfavorable report from the House Judiciary Committee. HB 832 of 2004, a similar bill, was withdrawn prior to a hearing.

Cross File: SB 555 (Senator Gladden) – Judicial Proceedings.

Information Source(s): State's Attorneys' Association, Montgomery County, Prince George's County, Washington County, Worcester County, Judiciary (Administrative Office of the Courts), Department of Public Safety and Correctional Services, Department of Legislative Services

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