

Department of Legislative Services
Maryland General Assembly
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FISCAL AND POLICY NOTE
First Reader

House Bill 1368
Judiciary

(Delegate Corderman, *et al.*)

Correctional Services - Home County Correctional Facility Program

This bill requires the Commissioner of Correction to establish a relocation program in which an inmate within the last five years of the inmate's term of confinement may request to relocate to the inmate's home county correctional facility for the purpose of promoting reentry into the community on release. In addition to any other deductions allowed, an inmate may be allowed a deduction of up to five days from the inmate's term of confinement for each calendar month during which the inmate participates in the relocation program; the bill establishes provisions regarding such a deduction. By September 1 each year, the Commissioner must report to the House Appropriations Committee on the fiscal impact of the relocation program, as specified. The Commissioner must adopt implementing regulations.

Fiscal Summary

State Effect: General fund expenditures for the Department of Public Safety and Correctional Services (DPSCS) increase significantly due to grants to counties, as discussed below. Revenues are not affected.

Local Effect: Significant increase in local government incarceration expenditures, partially offset by an increase in grant revenues from the State.

Small Business Effect: None.

Analysis

Bill Summary: The Commissioner must determine whether an inmate who requests to participate in the relocation program is eligible based on (1) an evaluation of the inmate that assesses the extent to which the inmate would benefit from the relocation program and the inmate's specified case record and (2) any other factors as determined by the Commissioner. An inmate determined eligible to participate by the Commissioner must be relocated to the inmate's home county correctional facility as soon as practicable.

An inmate may be returned to a State correctional facility if, after being initially relocated under the bill's provisions, the inmate has had any portion of diminution credits awarded for participation in the program revoked. The managing official of a local correctional facility is authorized to revoke some or all of the diminution credits awarded, as specified.

"Home county correctional facility" means a local correctional facility in the county in which an inmate was permanently domiciled before incarceration if the inmate was a resident of the State.

Current Law: 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 inmates who are sentenced to and awaiting transfer to the State correctional system. A \$45 per diem grant is provided to each county for each day between 12 and 18 months that a sentenced inmate is confined in a local detention center. Counties also receive an additional \$45 per day grant for 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.

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 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.

Background: DPSCS advises that it has established a Local Reentry Program that allows inmates who are within 365 days but not less than 30 days from release to transfer to a local detention center for reentry programming. The program operates through a memorandum of understanding between the department and nine participating local jurisdictions with designated personnel to facilitate the process.

Participation in the program is voluntary, and for inmates who wish to participate, an information packet is prepared for the county to review. After review, the county makes the determination and notifies DPSCS as to whether or not the county will accept the inmate for transfer.

State Expenditures: As a result of more inmates being eligible to relocate to their home county correctional facilities, general fund *incarceration expenditures* for DPSCS likely decrease; however, any decrease is offset by a significant *increase* in general fund

expenditures for the State to provide increased grants to counties for inmates who are relocated under the bill.

Under the bill, an inmate may request to relocate to the inmate's home county correctional facility for the purpose of promoting reentry into the community on release within the last five years of the inmate's term of confinement.

Excluding overhead, the average cost of housing a new State inmate (including health care costs) is about \$1,015 per month. Excluding health care (which is a fixed cost under the current contract), the average variable costs total \$191 per month. Thus, for every 100 inmates relocated to local correctional facilities, State incarceration expenditures decrease by up to \$1.1 million (assuming placement in local correctional facilities for five years).

However, the State provides counties a grant of \$45 *per day* for inmates sentenced to the custody of the State but confined in or who receive reentry or other prerelease programming and services from a local facility. Thus, under the bill's provisions, the grant amount could total up to \$82,125 per inmate (assuming placement in the local correctional facility for five years). For every 100 inmates statewide, general fund expenditures for county grants increase by up to \$8.2 million.

According to DPSCS, the Division of Correction currently has 8,775 inmates within five years of release.

Local Revenues: County grant revenues increase significantly. Counties receive an additional \$45 per day grant for 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. As discussed above, under the bill, counties could receive up to \$82,125 per inmate who participates in the relocation program.

Local Expenditures: Local government incarceration expenditures increase significantly, as the bill does not limit the number of inmates who may participate in the program, and counties are not authorized to refuse acceptance of an inmate determined eligible for participation. The following information was gleaned from a limited survey of local governments:

- Calvert County reports that while the county is unable to provide a specific fiscal estimate for the bill, the county likely needs to construct a new correctional facility to meet the potential increase in inmates confined in the county as a result of the bill.
- Montgomery County advises that local government expenditures increase significantly. The estimated cost to house an inmate in the county is \$214.08

per day. On average, the county transfers 233 inmates to DPSCS custody each year. If the county receives 100 inmates through the program, personnel costs for the county detention center increase by approximately \$1.4 million.

- Prince George's County reports that the county receives an estimated 1,650 individuals released from DPSCS custody annually. Although not all would be eligible for the program, the county estimates that the population in the local correctional facility likely doubles and operating costs increase by approximately \$60 million annually. In addition, the county would need to construct a new correctional facility after one year at a cost estimated to exceed \$100 million.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Baltimore City; Calvert, Montgomery, and Prince George's counties; Department of Public Safety and Correctional Services; Department of Legislative Services

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