

Department of Legislative Services
Maryland General Assembly
2021 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 866 (Senator Corderman)
Judicial Proceedings

Correctional Services – Payment by State – Inmate Housing Costs

This bill repeals requirements for the State to provide each county a grant equal to at least \$45 per day under specified circumstances for housing specified sentenced inmates in a local correctional facility and instead (1) authorizes a county to enter into a binding memorandum of understanding (MOU) with the Department of Public Safety and Correctional Services (DPSCS) to determine the total cost to house specified inmates in a local correctional facility and (2) requires the State to provide each county a grant equal to 50% of the cost determined in the MOU or, if the county does not have an MOU, 50% of the total cost that the county spent to house inmates, as determined by DPSCS. If a county fails to provide specified required documentation when due, DPSCS must deduct 20% of the amount determined (through the MOU or by the department) for each 30 days or part of 30 days after the due date.

Fiscal Summary

State Effect: The overall effect on general fund expenditures is unclear, as discussed below. Revenues are not affected.

Local Effect: The overall effect on local grant revenues is unclear, as discussed below. Local government expenditures are not affected.

Small Business Effect: None.

Analysis

Bill Summary: A county may enter into a binding MOU with DPSCS to determine the total cost to house (1) inmates sentenced to the county's local correctional facility in a

fiscal year and (2) inmates transferred to the county's local correctional facility from DPSCS for the purpose of receiving reentry or other prerelease programming and services.

Current Law: For each fiscal year, the State must provide each county a \$45 per diem State grant for each day between 12 and 18 months that a sentenced inmate is confined in a local correctional facility during the second preceding fiscal year. The State must also provide each county a grant equal to at least \$45 for each day (1) an inmate who has been sentenced to the custody of the State was confined in a local correctional facility during the second preceding fiscal year and (2) an inmate who has been sentenced to the jurisdiction of the Division of Corrections (DOC) received reentry or other prerelease programming and services from a local correctional facility during the second preceding fiscal year.

By October 1 each year, each county must submit to DPSCS inmate days reports for the previous fiscal year. If a county fails to submit the required information when due, DPSCS must deduct an amount equal to 20% of the grant for each day between 12 and 18 months that a sentenced inmate is confined in a local correctional facility for each 30 days or part of 30 days after the due date that the information has not been submitted.

“Sentenced inmates” means inmates confined in a local correctional facility after being sentenced to the custody of the local correctional facility for more than 12 months and not more than 18 months.

State Expenditures: General fund expenditures may be affected, potentially significantly, beginning in fiscal 2022, as a result of the bill's requirement for the State to provide a county a grant equal to 50% of the total cost determined in the MOU between the county and DPSCS for (1) inmates sentenced to the county's local correctional facility in a fiscal year and (2) inmates transferred to the county's local correctional facility from DPSCS for the purpose of receiving reentry or other prerelease programming and services.

Currently, a \$45 per diem State 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 currently receive an additional \$45 per day grant for (1) inmates who have been sentenced to the custody of the State but are confined in a local facility and (2) inmates who have been sentenced to the jurisdiction of DOC and received reentry or other prerelease programming and services from a local correctional facility. In addition, DPSCS currently has MOUs in effect with multiple counties, which state that the per diem rate is \$45 per day. Under the bill, the per diem State grant is reduced to 50% of the total costs determined in the MOU between the county and DPSCS. As such, in counties with MOUs currently in place, the State grant is reduced by 50% from \$45 to \$22.50 per day.

To the extent that DPSCS and counties renegotiate the existing MOUs as a result of the bill, however, general fund expenditures for grants could remain unchanged, decrease, or increase depending on the outcome of the negotiations and the resulting MOUs. Any such impact cannot be predicted.

In counties without an existing MOU, the bill authorizes DPSCS to determine an amount that is 50% of the total cost that the county spent to house inmates. Such amounts could be the same, greater than, or less than the current per diem State grant provided to those counties; however, without actual experience under the bill, it is not possible to determine the bill's effect on general fund expenditures for grants to those counties.

Local Revenues: Likewise, local grant revenues are affected, potentially significantly, beginning in fiscal 2022.

Counties pay the full cost of incarceration for people in their facilities for the first 12 months of the sentence. As noted above, under current law, a \$45 per diem State 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. As also noted, counties receive an additional \$45 per day grant for (1) inmates who have been sentenced to the custody of the State but are confined in a local facility and (2) inmates who have been sentenced to the jurisdiction of DOC and received reentry or other prerelease programming and services from a local correctional facility. Per diem operating costs of local detention facilities have ranged from approximately \$40 to \$170 per inmate in recent years.

Several counties, including Montgomery and Prince George's counties, have MOUs with DPSCS that set the per diem rate at \$45 per day for inmates sentenced to DOC and (1) confined in the local correctional facility or (2) who received reentry or other prerelease programming and services from the local correctional facility. If counties with existing MOUs do not renegotiate the MOUs, the grant rate to such counties decreases by 50% from \$45 per day to \$22.50 per day; accordingly, grant revenues decrease potentially significantly in those counties. To the extent that the counties and DPSCS renegotiate those existing MOUs, however, grant revenues could stay the same, decrease, or increase. Any such impact cannot be predicted.

In counties without an existing MOU, the bill authorizes DPSCS to determine an amount that is 50% of the total cost that the county spent to house inmates. Such amounts could be the same, greater than, or less than the current per diem State grant provided to those counties; however, without actual experience under the bill, it is not possible to determine the bill's effect on grant revenues to those counties.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

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

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