

Department of Legislative Services
Maryland General Assembly
2021 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 868

(Senator Corderman, *et al.*)

Judicial Proceedings

Correctional Services - Inmate Release

This bill authorizes the Division of Correction (DOC) and a local correctional facility to establish, through a memorandum of understanding (MOU), a rate of reimbursement for an inmate sentenced to DOC and confined in a local correctional facility. DOC must (1) transport an inmate from a State correctional facility to a local correctional facility, as specified, at least five days before the inmate is scheduled to be released from confinement in the State correctional facility; (2) notify a local correctional facility at least 30 days before DOC is scheduled to transport the inmate from the State correctional facility to the local correctional facility; and (3) reimburse the local correctional facility that receives the transferred inmate for the expenses incurred by the local correctional facility as a result of the transfer at a rate determined by the MOU, or \$45 per day, as specified. The Division of Parole and Probation (DPP) must supervise any required probation, parole, or mandatory supervision of the transferred inmate.

Fiscal Summary

State Effect: General fund expenditures increase to provide reimbursements to local correctional facilities, as discussed below. Revenues are not affected.

Local Effect: Local government expenditures and revenues increase, as discussed below.

Small Business Effect: None.

Analysis

Bill Summary: DOC must transport the inmate from the State correctional facility to the local correctional facility of the inmate's address that is on file in the statewide voter

registration list or last known residence before incarceration, as determined by the decennial census. If that address is unavailable, DOC must transport the inmate from the State correctional facility to the local correctional facility of the inmate's address that is listed on a REAL ID Act-compliant identification (ID) card or driver's license or recorded by the correctional facility at the time the inmate entered the correctional facility.

Current Law:

Release Plans: The Commissioner of Correction must adopt regulations (1) establishing a release plan for inmates upon release from confinement in a State correctional facility to help identify resources to assist inmates following release, including the provision of transportation from the facility for an inmate upon release and (2) implementing provisions concerning issuance of an ID card to inmates on release from confinement in a State correctional facility. The Commissioner of Correction must issue an ID card to an inmate before release from confinement in a State correctional facility.

The Code of Maryland Regulations (COMAR) specifies that, when feasible, a parole release plan must be completed before a parole hearing. A release plan must include the name of the parolee's employer or evidence of other legitimate means of financial support, the location at which the parolee will reside, and the nature of any community services necessary to meet the special needs of the parolee. In addition, COMAR specifies the following elements of a release plan:

- evidence must be furnished to the Maryland Parole Commission (MPC) that the prospective parolee will be legitimately employed following release; however, the employment requirement may be waived by MPC where circumstances warrant a waiver;
- assurance should be given that necessary aftercare will be available to parolees who are ill or who have any other demonstrated problems in which special treatment may be necessary;
- parolees must be allowed, in the discretion of MPC, to return to their homes, or to go elsewhere, upon such terms and conditions as MPC prescribes; and
- gradual release may be completed through a community-based treatment facility (*i.e.*, halfway house). (MPC may require such placement as a step in the release process.)

Per Diem Rates: Counties pay the full cost of incarceration for people in their facilities for the first 12 months of the sentence. 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 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 pre-release programming and services from a local correctional facility.

State Expenditures: General fund expenditures increase to reimburse local governments as required by the bill. The increase in costs to provide reimbursements, which cannot be reliably estimated at this time, depends on (1) if an MOU exists and the rate of reimbursement established through the MOU between DOC and a local correctional facility and (2) the number of inmates transferred to local correctional facilities as a result of the bill.

The Department of Public Safety and Correctional Services advises that it does not have any access to residence information provided to the U.S. Census Bureau, as that information is confidential under Title 13 of the U.S. Code, and any disclosure of individually identifying information is prohibited.

In addition, DOC advises that the bill's requirements conflict with best practices related to reentry and has operational impacts on DOC. There are three primary ways for an inmate to be released from confinement: parole; mandatory supervision release; and expiration of sentence.

Parole: An inmate who is paroled must provide a "home plan" to the inmate's case manager, which is then investigated and approved by DPP prior to the parolee's release. Currently, the inmate is transferred to the hub closest to *the inmate's intended residency* prior to release. Under the bill, DOC is required to transport an inmate to a local correctional facility based on prior documented information for the inmate, regardless of the inmate's *intended residency*.

Mandatory Supervision Release: Case management works with such inmates to identify a "home plan" prior to release. Similar to an inmate released on parole, the inmate is transferred to the hub closest to the inmate's *intended residency*.

Expiration of Sentence: These inmates are released after having served their entire court-ordered sentence. The majority of such inmates will not be completing the terms of their sentence under supervision, so they are under no obligation to report the location of their intended residency prior to release. Such inmates could inform case management and be transferred to the hub closest to their intended residency prior to release; however, they typically do not and are released from the hub closest to the correctional facility in which they are confined.

Local Revenues: Local revenues from reimbursements from the State increase depending on (1) the rate of reimbursement established through an MOU between DOC and the local correctional facility for the jurisdiction (or if no MOU exists, the \$45 per day *per diem* rate

under current law) and (2) the number of inmates transferred to a local correctional facility as a result of the bill.

Local Expenditures: Local correctional facility expenditures increase depending on the number of inmates transferred to the jurisdiction's local correctional facility under the bill. A local correctional facility is not authorized to decline acceptance of an inmate transferred by DOC pursuant to the bill. Rather, DOC controls the number of inmates transferred and the timing of the transfer. The local correctional facility must cover all inmate costs that are greater than the rate of reimbursement established through an MOU between DOC and the local correctional facility or, if no MOU exists, the \$45 per day *per diem* under current law. For context, *per diem* operating costs of local correctional facilities have ranged from approximately \$40 to \$170 per inmate in recent years.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Anne Arundel, Baltimore, Charles, Frederick, and Montgomery counties; Department of Public Safety and Correctional Services; Maryland Department of Transportation; Department of Legislative Services

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Analysis by: Shirleen M. E. Pilgrim

Direct Inquiries to:
(410) 946-5510
(301) 970-5510