

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 5563-01
Bill No.: HB 1869
Subject: Crimes and Punishment; Prisons and Jails; Department of Corrections
Type: Original
Date: April 4, 2018

Bill Summary: This proposal requires first-time offenders of certain dangerous felonies to serve a minimum of fifty percent of their sentence.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2019	FY 2020	FY 2021
General Revenue	\$1,013,647	\$1,209,053	\$1,271,974
Total Estimated Net Effect on General Revenue	\$1,013,647	\$1,209,053	\$1,271,974

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2019	FY 2020	FY 2021
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 8 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2019	FY 2020	FY 2021
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2019	FY 2020	FY 2021
Total Estimated Net Effect on FTE	0	0	0

Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$100,000 in any of the three fiscal years after implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2019	FY 2020	FY 2021
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Corrections (DOC)** state the proposed bill would reduce the mandatory time served for the dangerous felonies of assault in the first degree and robbery in the first degree from eighty five percent of the sentence to fifty percent of the sentence. This would only apply to offenders with no previous commitments to the department of corrections. At present, the required percentage served drops to forty percent of sentence upon an offender reaching seventy years of age; this provision is unchanged by the current bill. For offenders in the category released before the end of their sentences, if they are returned to prison for a felony law violation, they are required to serve out the remainder of their sentence without eligibility for early release. The legislation will apply to offenders sentenced after the bill is enacted and retroactively to incarcerated offenders sentenced as dangerous felons.

At present, there are a total of 1,748 offenders incarcerated with the Department of Corrections who have, as their most serious sentence, one of the above offenses. These offenders have no prior prison commitments, are subject to the eighty five percentage time served at present, are not currently over the age of seventy, and they will not attain seventy years of age before fifty percent of their sentences have been served. Of these offenders, 434 would become eligible for parole before the end of FY 2018 with the passage of this bill, while only 167 would be eligible under current laws.

New admissions in FY17 with no prior DOC incarcerations

	Admissions	Average sentence	Time to First Release	
			85%	67%
Assault 1st degree	62	11.3	9.6	7.6
Robbery 1st degree	85	11.7	9.9	7.8
Total	147	11.5	9.8	7.7

During fiscal year 2017, there were a total of 147 offenders without a prior DOC commitment sentenced to prison terms for committing (attempts, conspiracy omitted) the offenses covered by this bill. These offenders received an average sentence of 11.5 years. At present, these offenders would serve an average of 9.8 years in prison. Under this bill, the parole board could release an offender after 50% of the sentence is served; however, as these are serious violent offenses, the parole board has generally required these offenders to serve about 60% before first release, and the DOC assumes that these offenders will be required to serve to the conditional release when the offenders will have to be released (7.7 years).

ASSUMPTION (continued)

The impact of the bill is the difference between releases after 85% and releases after reaching the conditional release date. The conditional release date is 67% of a sentence of less than 10 years, 3 years before the discharge date for sentences from 10 to 15, and five years before the discharge date for sentences from 16 to 30 years. There is no conditional release date for life sentences but the DOC assumes that the parole board will release after 25 years.

The release calculation is based upon those in prison and an estimate of releases of those offenders who will be admitted in the 10 years of the budget horizon using FY2017 admissions. The releases in FY2019 include offenders who will be eligible in FY2018 and earlier. The main impact will occur in FY2019, and the conditional releases in the next nine years will be less than the estimated releases based upon the 85%. In the ten years to FY2028, there will be an increase of 106 releases. In addition those releases there will be an increase in releases of those offenders who will be admitted on or after FY2018. The net increase is 231, but the DOC is adding in an estimate for parole violators. The legislation requires that law violators serve the remaining part of the sentence in prison. An analysis of time served by technical parole violators serving dangerous felonies indicates that the parole board already requires parole violators to serve most of their remaining time in prison, so no additional estimate is included. The revocation rate for these offenses is 32%, so 32% is taken off the increase in releases. The estimated increase in releases to FY2028 is 157.

**Impact of removing dangerous felony minimum prison terms for
 assault 1st degree and robbery 1st degree for no prior DOC incarcerations**

	Incarcerated on		Change in releases	Earlier Release of Admissions FY18+	Net Change	Population Less parole returns @ 32%
	22-Jan-18					
	DF 85%	CR				
FY2019	319	603	284	4	288	196
FY2020	176	162	-14	7	-7	-5
FY2021	180	174	-6	15	9	6
FY2022	148	132	-16	29	13	9
FY2023	157	132	-25	37	12	8
FY2024	150	89	-61	9	-52	-35
FY2025	98	63	-35	6	-29	-20
FY2026	81	66	-15	9	-6	-4
FY2027	62	58	-4	9	5	3
FY2028	46	44	-2	0	-2	-1
TOTAL	1417	1523	106	125	231	157

ASSUMPTION (continued)

Population Impact

	FY2019	FY2020	FY2021	FY2022	FY2023	FY2024	FY2025	FY2026	FY2027	FY2028
Net change	-196	5	-6	-9	-8	35	20	4	-3	1
<i>Cumulative Change</i>										
Prison population	-196	-191	-197	-206	-214	-179	-159	-155	-158	-157
Field population	196	191	197	206	214	179	159	155	158	157
P&P Officers + or -	0	0	0	0	0	0	0	0	0	0

A concern of the department is that the legislation will require offenders sentenced to a life sentence and returned as a law violator to serve life without a parole. At present there are 41 offenders serving a life sentence for assault 1st degree or robbery 1st degree with no prior DOC incarcerations. The sentence restriction would not apply to offenders with prior incarcerations.

If this impact statement has changed from statements submitted in previous years, it is because the Department of Corrections (DOC) has changed the way probation and parole daily costs are calculated to more accurately reflect the way the Division of Probation and Parole is staffed across the entire state.

In December 2017, the DOC reevaluated the calculation used for computing the Probation and Parole average daily cost of supervision and revised the cost calculation to be used for 2018 fiscal notes. The new calculation estimates the increase/decrease in caseloads at each Probation and Parole district due to the proposed legislative change. For the purposes of fiscal note calculations, the DOC averaged district caseloads across the state and came up with an average caseload of 51 offender cases per officer. The new calculation assumes that an increase/decrease of 51 cases in a district would result in a change in costs/cost avoidance equal to the cost of one FTE staff person in the district. Increases/decreases smaller than 51 offenders are assumed to be absorbable.

In instances where the proposed legislation would only affect a specific caseload, such as sex offenders, the DOC will use the average caseload figure for that specific type of offender to calculate cost increases/decreases.

The DOC cost of incarceration is \$17,003 per day or an annual cost of \$6,206 per offender. The DOC cost of probation or parole is determined by the number of P&P Officer II positions that would be needed to cover the new caseload.

ASSUMPTION (continued)

The DOC would assume this legislation will result in long term cost avoidance as indicated in the chart below.

	fewer # in prison	Cost per year	Total Savings for prison	# to probation & parole	Cost per year	Total cost for probation and parole	Grand Total - Prison and Probation (includes and 2% inflation)
Year 1	(196)	(\$6,206)	\$1,013,647	196	absorbed	\$0	\$1,013,647
Year 2	(191)	(\$6,206)	\$1,209,053	191	absorbed	\$0	\$1,209,053
Year 3	(197)	(\$6,206)	\$1,271,974	197	absorbed	\$0	\$1,271,974
Year 4	(206)	(\$6,206)	\$1,356,687	206	absorbed	\$0	\$1,356,687
Year 5	(214)	(\$6,206)	\$1,437,561	214	absorbed	\$0	\$1,437,561
Year 6	(179)	(\$6,206)	\$1,226,495	179	absorbed	\$0	\$1,226,495
Year 7	(159)	(\$6,206)	\$1,111,245	159	absorbed	\$0	\$1,111,245
Year 8	(155)	(\$6,206)	\$1,104,955	155	absorbed	\$0	\$1,104,955
Year 9	(158)	(\$6,206)	\$1,148,868	158	absorbed	\$0	\$1,148,868
Year 10	(157)	(\$6,206)	\$1,164,429	157	absorbed	\$0	\$1,164,429

Officials from the **Office of the State Public Defender** and the **Office of Prosecution Services** each assume the proposal would not fiscally impact their respective agencies.

Officials from the **Attorney General's Office (AGO)** assume that any potential costs arising from this proposal could be absorbed with existing resources. The AGO may seek additional appropriations if there is a significant increase in litigation.

Officials from the **Office of the State Courts Administrator** state there may be some impact, but there is no way to quantify that currently. Any significant changes will be reflected in future budget requests.

<u>FISCAL IMPACT - State Government</u>	FY 2019 (10 Mo.)	FY 2020	FY 2021
GENERAL REVENUE FUND			
<u>Savings</u> - DOC - reduced prison population	<u>\$1,013,647</u>	<u>\$1,209,053</u>	<u>\$1,271,974</u>
ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND	<u>\$1,013,647</u>	<u>\$1,209,053</u>	<u>\$1,271,974</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2019 (10 Mo.)	FY 2020	FY 2021
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

This bill specifies that any offender serving a sentence imposed on or after August 28, 1994, who has been convicted of the dangerous felonies of assault in the first degree or robbery in the first degree and who is under the age of 70 and has no previous prison commitments with the Department of Corrections for any felony offense must serve at least 50% of the sentence imposed by the court. Any offender who is paroled and thereafter has his or her parole revoked due to conduct that would be punished as a felony under the laws of this state, any other state, or of the United States that, if committed within this state, would be a felony must not be released until he or she has served the remainder of his or her original sentence as imposed by the court.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

L.R. No. 5563-01
Bill No. HB 1869
Page 8 of 8
April 4, 2018

SOURCES OF INFORMATION

Department of Corrections
Office of Prosecution Services
Office of the State Public Defender
Office of the State Courts Administrator
Office of the Attorney General

Ross Strope

A handwritten signature in black ink, appearing to read "Ross Strope", with a stylized flourish at the end.

Acting Director
April 4, 2018