

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0667-02
Bill No.: Perfected HCS for HB 352
Subject: Probation and Parole; Department of Corrections; Crimes and Punishment;
 Elderly
Type: Original
Date: February 20, 2019

Bill Summary: This proposal authorizes the early parole of certain offenders over the age of sixty-five.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND				
FUND AFFECTED	FY 2020	FY 2021	FY 2022	Fully Implemented (FY 2029)
General Revenue	\$52,392	\$76,953	\$91,574	\$210,379
Total Estimated Net Effect on General Revenue	\$52,392	\$76,953	\$91,574	\$210,379

ESTIMATED NET EFFECT ON OTHER STATE FUNDS				
FUND AFFECTED	FY 2020	FY 2021	FY 2022	Fully Implemented (FY 2029)
Total Estimated Net Effect on Other State Funds	\$0	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses. This fiscal note contains 7 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS				
FUND AFFECTED	FY 2020	FY 2021	FY 2022	Fully Implemented (FY 2029)
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)				
FUND AFFECTED	FY 2020	FY 2021	FY 2022	Fully Implemented (FY 2029)
Total Estimated Net Effect on FTE	0	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 2020	FY 2021	FY 2022	Fully Implemented (FY 2029)
Local Government	\$0	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

§217.697 - Early parole of certain offenders over age 65

Officials from the **Department of Corrections (DOC)** state this bill creates the possibility for offenders sentenced to life without parole and who are 65 years or older to be paroled after 30 years. The authority of the parole board to release offenders subject to statutory parole restrictions has been established under sections 217.690 and 217.040 and section 217.692 (2007 HB 583) that allowed the parole board to release offenders serving sentences of life without parole after 15 years if the offender was the victim of physical or sexual domestic abuse.

Additionally, the bill lays out some guidelines for conditions that should be met for the parole board to decide that an offender is eligible for release. Any offender released under this legislation must serve at least five years of supervision.

At the end of FY19, there are estimated to be 28 offenders who will be at least 65, who will have served 30 years or more, and who meet the other criteria for eligibility for a parole hearing (no prior violent offenses, not mentally ill, not a sex offender, and maintained good institutional behavior). There will be an additional 103 offenders who will become eligible between FY20 and FY29 after adjusting for expected deaths. In the last ten years, there have been 18 deaths of offenders over 65 serving life without parole sentences, and the department is estimating that 29 of the offenders who will become eligible in the next ten years will have died before reaching the age of 65.

It is difficult to estimate how many of these previously parole-ineligible offenders will be released upon the passage of this bill. However, considering the impact of HB 583 in 2007 which allowed life without parole offenders who had been the victims of domestic abuse to be paroled, five offenders were released. The average time served of offenders serving parole-eligible life sentences for murder is about 26 years. It seems reasonable that some of the offenders who will become eligible for release will be paroled. The DOC estimates that in the first year following enactment of the legislation, ten offenders will be paroled and two will be paroled in every subsequent year. Offenders released to parole will be supervised for five years, the minimum under the bill. After ten years, the DOC will have 28 fewer offenders in prison and 10 more on parole.

ASSUMPTION (continued)

Eligible for a Parole Hearing, 65 or older and served at least 30 years

	FY2020	FY2021	FY2022	FY2023	FY2024	FY2025	FY2026	FY2027	FY2028	FY2029
30 years	56	16	19	15	23	24	33	37	31	31
Expected										
Deaths		2	2	2	3	3	4	5	4	4
65+ & 30 years	56	14	17	13	20	21	29	32	27	27
of which eligible	28	7	9	7	10	11	15	16	14	14
Released	10	2	2	2	2	2	2	2	2	2
Impact										
Prison	-10	-12	-14	-16	-18	-20	-22	-24	-26	-28
Parole	10	12	14	16	18	10	10	10	10	10
Net impact	0	0	0	0	0	-10	-12	-14	-16	-18

The department anticipates a cost savings with this legislation in regard to the early release of eligible offenders over the age of 65. However, the department is also anticipating that the proposal could have a negative impact due to increased litigation costs surrounding the implementation of the proposal. The Parole Board is an administrative agency and does not have systems in place to weigh factors as required by the proposal. Thus the proposal could result in increased litigation costs due to the difficulty in implementing the proposal.

If this impact statement has changed from statements submitted in previous years, it is because the 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 2019 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.

ASSUMPTION (continued)

The DOC cost of incarceration is \$17,224 per day or an annual cost of \$6,287 per offender. The DOC cost of probation or parole is determined by the number of Probation and Parole Officer II positions that would be needed to cover the new caseload.

	# released from prison	Cost per year	Total anticipated savings for prison	# to probation & parole	Cost per year	Total cost for probation and parole	Grand Total - Prison and Probation (includes a 2% inflation)
Year 1	10	(\$6,287)	\$52,392	10	absorbed	\$0	\$52,392
Year 2	12	(\$6,287)	\$76,953	12	absorbed	\$0	\$76,953
Year 3	14	(\$6,287)	\$91,574	14	absorbed	\$0	\$91,574
Year 4	16	(\$6,287)	\$106,749	16	absorbed	\$0	\$106,749
Year 5	18	(\$6,287)	\$122,495	18	absorbed	\$0	\$122,495
Year 6	20	(\$6,287)	\$138,827	10	absorbed	\$0	\$138,827
Year 7	22	(\$6,287)	\$155,764	10	absorbed	\$0	\$155,764
Year 8	24	(\$6,287)	\$173,323	10	absorbed	\$0	\$173,323
Year 9	26	(\$6,287)	\$191,522	10	absorbed	\$0	\$191,522
Year 10	28	(\$6,287)	\$210,379	10	absorbed	\$0	\$210,379

Oversight does not have any information contrary to that provided by DOC. Therefore, Oversight will reflect DOC's impact for fiscal note purposes.

House Amendment (HA) 1:

Officials from the **Department of Corrections (DOC)** assume the amendment will not change the estimated fiscal impact to their department.

Oversight has no information to the contrary, therefore, **Oversight** assumes HA 1 has no additional fiscal impact.

<u>FISCAL IMPACT -</u> <u>State Government</u>	FY 2020 (10 Mo.)	FY 2021	FY 2022	Fully Implemented (FY 2029)
GENERAL REVENUE FUND				
<u>Savings - DOC</u> (\$217.697)				
Decreased				
incarceration costs	<u>\$52,392</u>	<u>\$76,953</u>	<u>\$91,574</u>	<u>\$210,379</u>
ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND	<u>\$52,392</u>	<u>\$76,953</u>	<u>\$91,574</u>	<u>\$210,379</u>

<u>FISCAL IMPACT -</u> <u>Local Government</u>	FY 2020 (10 Mo.)	FY 2021	FY 2022	Fully Implemented (FY 2029)
	<u>\$0</u>	<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 incarcerated offender 65 years of age or older who has no prior felony convictions of a dangerous felony, who is not a convicted sexual offender, and who is serving a sentence of life without parole for a minimum of 50 years or more must receive a parole hearing upon serving 30 years or more of his or her sentence.

The Parole Board must determine whether there is a reasonable probability that the offender will not violate the law upon release and therefore is eligible for release based upon a finding that the offender meets specified criteria.

Any offender who is not granted parole under these provisions must be eligible for reconsideration every two years until a presumptive release date is established.

FISCAL DESCRIPTION (continued)

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

SOURCES OF INFORMATION

Department of Corrections



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February 20, 2019

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February 20, 2019