LEGISLATIVE FISCAL ESTIMATE

[Fourth Reprint]

SENATE, No. 761

STATE OF NEW JERSEY
218th LEGISLATURE

DATED: JANUARY 14, 2020

SUMMARY

Synopsis: "Earn Your Way Out Act"; requires DOC to develop inmate reentry plan and establish information database; establishes administrative parole release and provides compliance credits.

Type of Impact: Indeterminate annual expenditure impact to State General Fund.

Agencies Affected: Department of Corrections, State Parole Board.

Office of Legislative Services Estimate

Fiscal Impact	
Annual State Expenditure Impact	Indeterminate

- The Office of Legislative Services (OLS) anticipates that the corrections and parole reforms contemplated by the bill would alter annual State expenditures. However, insufficient information precludes the OLS from determining the direction and magnitude of the net State expenditure effect.

- A shift of inmates from State prison facilities to the parole system would be the primary effect of the bill. The State Parole Board (SPB) expects the annual number of parolees under its auspices to increase by 1,749 to 1,923. Assuming 1,923 more parolees, the SPB projected that its annual expenditures would rise by up to $16.6 million, or $8,612 per additional parolee, once the effects of the bill would be fully realized. The OLS deems the SPB estimate reasonable but notes additional factors that would affect SPB expenditures.

- Accelerating the release date of inmates to parole supervision would lower annual Department of Corrections (DOC) expenditures, but absent information from the DOC, the OLS is unable to quantify the reduction in annual DOC operating expenditures.

- Annual State expenditures may also be affected by any changes the bill may induce in the parole revocation, re-arrest, re-conviction, and re-incarceration rates of inmates whose terms of incarceration and parole would be altered by the provisions of the bill.

BILL DESCRIPTION

This bill requires the DOC and the SPB to coordinate reentry preparation and other rehabilitative services for inmates in State correctional facilities, and to develop and implement an individualized reentry plan to facilitate each inmate's successful re-integration into society upon release. Each plan may incorporate medical, psychiatric, psychological, educational, vocational, substance abuse, and social rehabilitative services.

The bill also establishes administrative parole release for certain inmates at the time of primary or subsequent parole eligibility. The release occurs after a hearing officer reviews an inmate's pre-parole report and certifies the inmate for release without the need for a parole consideration hearing. Any denial of administrative parole release is to be appealable and the SPB is to state on the record the reasons for the denial.

An inmate is to be administratively released on parole if:

1) the inmate has not been convicted of certain violent crimes, certain other crimes committed with firearms, or certain sex offenses;

2) the inmate has not committed any prohibited acts that resulted in a conviction during the current term of incarceration or any prohibited act that is considered the most serious and results in the most severe sanctions within the previous two years;

3) the inmate has completed relevant rehabilitation programs during incarceration, or was unable to complete or denied access to the programs because of circumstances beyond the inmate's control; and

4) crime victims have received notification.

An administrative parolee is to remain in the legal custody of the DOC, be supervised by the SPB, and be subject to the conditions established by the appropriate board panel. If the parolee violates a condition of parole, parole may be revoked and the parolee returned to a DOC facility.

The bill also establishes parole compliance credits that reduce a person's term of parole. All parolees, except those deemed ineligible, may earn one day of parole reduction for every six days of parole supervision the person has completed. Violations of conditions of parole would trigger the full or partial forfeiture of previously earned credits.

Additionally, inmates may newly earn commutation credits for time served in a county jail between their arrest and before the imposition of sentence.

Furthermore, the DOC is to establish and maintain a centralized database of information contained in each disciplinary report prepared by a corrections officer in response to an inmate committing a prohibited act during the term of incarceration that resulted in a conviction.

The bill also requires that a criminal justice program at a four-year public institution of higher education in this State conduct a study on the impacts of administrative parole release.

Lastly, the DOC is to allocate an unspecified portion of any cost savings realized from the bill's implementation to the Office of Victim Services for the operating costs of the Focus on the Victim Program and other services to facilitate successful reentry.

The bill takes effect on the first day of the thirteenth month following the date of enactment.

FISCAL ANALYSIS

EXECUTIVE BRANCH

The OLS has not received a formal fiscal note on this bill. However, upon request, the SPB has indicated to the OLS that the bill may increase the annual number of parolees under its auspices by 1,749 to 1,923. Assuming 1,923 more parolees, the SPB projected that its annual expenditures

would rise by up to $16.6 million, or $8,612 per additional parolee, once the effects of the bill would be fully realized.

The estimated annual SPB expenditure increase includes $9.6 million for additional parolee placements in community programs, $4.1 million in additional SPB personnel expenditures for 50 new full-time equivalent positions, and $2.9 million in other operating expenditures, such as the purchase and maintenance of additional vehicles. The SPB noted, however, that some of the vehicle costs and some non-salary officer expenses would be one-time expenditures.

OFFICE OF LEGISLATIVE SERVICES

The OLS anticipates that the corrections and parole reforms contemplated by the bill would have an indeterminate net effect on annual State expenditures. As more inmates would be shifted from State prison facilities to the parole system, annual SPB expenditures would increase, while those of the DOC would decline. In addition, there may be a recidivism effect on annual State expenditures from any changes the bill may induce in the parole revocation, re-arrest, re-conviction, and re-incarceration rates of inmates whose terms of incarceration and parole would be altered by the provisions of the bill. However, insufficient information precludes the OLS from determining the direction and magnitude of the bill's net State expenditure effect.

Effects on the SPB: The OLS deems the SPB estimate of the bill's effects on SPB operating costs reasonable but notes four additional factors that may warrant adjustments thereto. The board estimated that it would have to supervise an additional 1,749 to 1,923 parolees per year and that 1,923 additional parolees would increase annual SPB expenditures by up to $16.6 million, or $8,612 per additional parolee, once the effects of the bill would be fully realized.

First adjustment, the estimate does not include the cost of fringe benefits and federal employer taxes (FICA and Medicare) for the 50 new full-time equivalent positions that would be created and filled. In FY 2019, the value of fringe benefits and federal employer taxes constituted 49.05 percent of an employee's base salary. At the $3.4 million in additional annual salary costs the SPB estimated, the added fringe benefits and federal employer costs would total $1.7 million.

Second, the estimate does not address the requirement included in the bill that the SPB would have to state and substantiate on the record the reasons for the denial of parole to an inmate. The OLS has no information on the extent to which this added administrative responsibility would increase SPB personnel needs and expenditures.

Third, the SPB estimate does not appear to take into account that the bill generally requires the awarding of parole compliance credits to all parolees who meet certain behavioral standards. These credits would accelerate parole release dates, which would lower SPB expenditures by an indeterminate amount.

Fourth, in mandating that administrative parole release be granted without a parole hearing, the bill would lower the annual caseload and expenditures of the SPB. The OLS, however, has no information of the impact of the bill on the annual number of parole hearings.

The OLS notes further that the SPB estimate assumes that the additional 1,923 parolees would all be placed in residential re-entry programs. The cost per parolee who is placed in such a program exceeds that of a parolee who is not placed in a residential program. While it is possible that all 1,923 parolees would be placed in residential re-entry programs, the bill's impact on SPB expenditures would be less if some of the additional parolees were not placed in these programs.

Effects on the DOC: Releasing inmates sooner from State prisons to parole supervision would reduce annual DOC expenditures. Inmates would be released sooner because of administrative parole release and new commutation credits for time served in county jail between arrest and before the imposition of sentence. Absent information from the DOC on the fiscal impacts the bill

would have on its operations, the OLS is unable to quantify these impacts. However, depending on circumstances, the expenditure reduction per inmate may fluctuate substantially.

The DOC previously indicated to the OLS that the average annual cost to house an inmate in a State prison facility totaled $50,590 in FY 2019. But this amount would not accrue as State cost savings for each individual diverted to parole supervision unless the prison population declined by a number large enough for the DOC to lower bed space capacity, thereby reducing fixed costs. The department informed the OLS that if a single inmate had been diverted from State prison in FY 2019 without decreasing the number of bed spaces, the department would not have incurred marginal costs for food, wages, and clothing of $8.74 per day, or $3,190 for the fiscal year. Given the SPB finding that between 1,749 and 1,923 inmates would be released to parole sooner each year under the bill, the DOC would likely be able to reduce some of its fixed costs over time. As a result, the per-inmate cost reduction to the DOC can be expected to exceed $3,190 per fiscal year but fall below $50,590.

Recidivism Effects: The bill may also have a recidivism effect on annual State expenditures, which would accrue if the provisions of the bill were to induce changes in the parole revocation, re-arrest, re-conviction, and re-incarceration rates of inmates who are released from State prison. The recidivism expenditure effect would apply to the entire criminal justice system, not just the correctional and parole systems. The OLS, however, lacks information on the effects the bill would have on recidivism rates of former inmates. By way of background, according to the FY 2020 Governor's Budget, some 30.5 percent of inmates who were released from State prisons in calendar year 2014 were re-incarcerated within three years of their release.

Other Fiscal Effects: Other aspects of the bill that could have a fiscal impact include:

1) The DOC and the SPB would have to develop and implement an individualized, comprehensive reentry plan to prepare each inmate for successful re-integration into society, which responsibility would likely require added personnel hours.

2) The DOC is to develop and maintain a centralized database on inmate disciplinary reports.

3) The bill requires that a four-year public institution of higher education in this State conduct a study on the impacts of administrative parole release. This study would likely result in a one-time cost increase to the DOC and one-time revenue and cost increases to the contracted public institution of higher education.

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This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).