

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1847-01
Bill No.: SB 380
Subject: Corrections Department; Crimes and Punishment; Criminal Procedure; Law Enforcement and Agencies; Prisons and Jails
Type: Original
Date: April 2, 2013

Bill Summary: This proposal modifies provisions relating to criminal offenders participating in Department of Corrections' 120-day programs and sexual offender assessment programs.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
General Revenue	(Less than \$100,000)	(Less than \$100,000)	(Less than \$100,000)
Total Estimated Net Effect on General Revenue Fund	(Less than \$100,000)	(Less than \$100,000)	(Less than \$100,000)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 6 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
Total Estimated Net Effect on FTE	0	0	0

- Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).
- Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Corrections (DOC)** state this bill proposes to modify provisions relating to criminal offenders participating in the 120-day programs and sexual offender assessment (SOAU) program. The addition to section 3 of this legislation which states an offender's 120 day sentence begins upon being delivered to the DOC is very beneficial to the DOC as it allows process time to get an offender into the appropriate program. Currently an offender's incarceration time in the jail counts toward his/her 120 days of incarceration. So an offender could actually arrive at the diagnostic center without enough time left on his/her 120 day sentence to complete a program to which he/she has been sentenced. Currently DOC reimburses county jails for time an offender serves while in jail. It is unknown whether this will still occur if this bill passes.

Section 5 of this legislation addresses offenders sentenced for a sex offender assessment. It indicates this is not to be considered a 120 day program. Sex offenders are currently not eligible for 120 day programs. It states upon completion of the assessment, the DOC shall provide the court a report so that they can make the decision to release or require the offender to serve his/her term of incarceration.

Subsection 7 addresses the exclusion of prior prison commitments under this section. The proposed language will only exclude offenders placed in a 120 day treatment program under subsection 3 from having their first incarceration prior to release on probation excluded from counting as a previous prison commitment. This means that offender sentenced to shock incarceration under subsection 2 or a sex offender assessment under subsection 5 could have their first commitment count as a prior prison commitment.

Currently, DOC does not count the first commitment of an offender if they are sentenced under any subsection under this section and are successfully released on probation, even though this subsection specifies that it is applicable to program placement only.

If persons are staying longer in the custody of the DOC due to the provisions of this legislation, the DOC will incur a corresponding increase in direct offender cost either through incarceration (FY12 average of \$17.059 per offender, per day, or an annual cost of \$6,227 per inmate) or through supervision provided by the Board of Probation and Parole (FY12 average of \$4.960 per offender, per day, or an annual cost of \$1,810 per offender).

In summary, supervision by the DOC through probation or incarceration would result in additional unknown costs to the department. Seventeen (17) persons would have to be

ASSUMPTION (continued)

incarcerated per each fiscal year to exceed \$100,000 annually. Due to the narrow scope of this modification, it is assumed the impact would be less than \$100,000 per year for the DOC.

Officials at the **Department of Mental Health** and **Office of State Courts Administrator** each assume there is no fiscal impact to their organization from this proposal.

<u>FISCAL IMPACT - State Government</u>	FY 2014 (10 Mo.)	FY 2015	FY 2016
GENERAL REVENUE			
<u>Costs</u> - Department of Corrections			
Potential for additional supervision through incarceration / probation	(Less than <u>\$100,000</u>)	(Less than <u>\$100,000</u>)	(Less than <u>\$100,000</u>)
ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND	(Less than <u>\$100,000</u>)	(Less than <u>\$100,000</u>)	(Less than <u>\$100,000</u>)

<u>FISCAL IMPACT - Local Government</u>	FY 2014 (10 Mo.)	FY 2015	FY 2016
	<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 act repeals a provision under current law that a circuit court must release an offender who participates in a 120-day Department of Corrections program unless the release constitutes an abuse of discretion. Also repealed is a provision that, if the court finds that the release would be an abuse of discretion, the court may order the execution of the offender's sentence only after conducting a hearing within 90 to 120 days of the offender being sentenced.

FISCAL DESCRIPTION (continued)

This act leaves in place provisions of current law that require the court to follow the recommendation of the department regarding the release of an offender who participates in a 120-day program unless the court determines probation is not appropriate. This act provides that the offender's sentence may only be executed after conducting a hearing on the matter within 90 to 120 days from the date the offender was delivered to the Department of Corrections rather than the date the offender was sentenced.

Current law provides that the Department of Corrections must provide a report and recommendations for terms and conditions of probation to the court after 100 days of incarceration if the department determines that an offender is not successful in a program. The court must then release the offender on probation or order the offender to remain incarcerated to serve the sentence imposed.

This act provides that, if the department determines the offender has not successfully completed a 120-day program, the offender must be removed from the program and the court advised of the removal. The department may provide recommendations for terms and conditions of probation. The court then has the power to grant probation or order execution of the offender's sentence.

This act provides that the court must consider other authorized dispositions if the court is advised that an offender is not eligible for placement in a 120-day program.

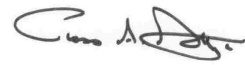
Under this act, the department must provide a report and sentencing recommendation to the court when an offender completes a sexual offender assessment. This act also specifies that a sexual offender assessment shall not be considered a 120-day program and identifies the provisions containing the process for granting probation to an offender who has completed the assessment.

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. 1847-01
Bill No. SB 380
Page 6 of 6
April 2, 2013

SOURCES OF INFORMATION

Department of Corrections
Department of Mental Health
Office of State Courts Administrator



Ross Strobe
Acting Director
April 2, 2013

RS:LR:OD