

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4611-02
Bill No.: HCS for HB 1359
Subject: Department of Corrections; Crimes and Punishment; Probation and Parole
Type: Original
Date: March 2, 2018

Bill Summary: This proposal authorizes the early parole of certain offenders over the age of seventy.

FISCAL SUMMARY

| ESTIMATED NET EFFECT ON GENERAL REVENUE FUND | | | | |
|--|-----------------|-----------------|-----------------|-----------------------------|
| FUND AFFECTED | FY 2019 | FY 2020 | FY 2021 | Fully Implemented (FY 2028) |
| General Revenue | \$41,373 | \$63,301 | \$77,481 | \$192,835 |
| Total Estimated Net Effect on General Revenue | \$41,373 | \$63,301 | \$77,481 | \$192,835 |

| ESTIMATED NET EFFECT ON OTHER STATE FUNDS | | | | |
|---|------------|------------|------------|-----------------------------|
| FUND AFFECTED | FY 2019 | FY 2020 | FY 2021 | Fully Implemented (FY 2028) |
| | | | | |
| | | | | |
| Total Estimated Net Effect on <u>Other</u> State Funds | \$0 | \$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 2019 | FY 2020 | FY 2021 | Fully Implemented (FY 2028) |
| | | | | |
| | | | | |
| 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 2019 | FY 2020 | FY 2021 | Fully Implemented (FY 2028) |
| | | | | |
| | | | | |
| 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 2019 | FY 2020 | FY 2021 | Fully Implemented (FY 2028) |
| Local Government | \$0 | \$0 | \$0 | \$0 |

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Corrections (DOC)** state this bill creates the possibility for offenders sentenced to life without parole and who are 70 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 H.B.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 legislation 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 FY17, there are a total of 21 offenders who will be at least 70, who will have served 30 years or more, and who meet the other criteria for eligibility for a parole hearing and possible release (no prior violent offenses, not mentally ill, not a sex offender, and maintained good institutional behavior). There are an additional 111 offenders who will become eligible between FY19 and FY28 after adjusting for expected deaths. In the last 10 years, there have been 18 deaths of offenders over 70 serving life without parole sentences and the department is estimating that 20 of the offenders who will become eligible in the next 10 years will have died before reaching the age of 70.

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 H.B.583 in 2007 that allowed life without parole offenders who had been the victims of domestic abuse to be paroled (five offenders were released) and that 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 eight offenders will be paroled, two will be paroled in every subsequent year and offenders released to parole will be supervised for five years, the minimum under the bill. After 10 years the DOC will have 26 fewer offenders in prison and 10 more on parole.

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.

ASSUMPTION (continued)

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.

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

| | fewer # to prison | Cost per year | Total Savings for prison | more to probation | Cost per year | Total cost for probation and parole | Grand Total - (Avoidance) Prison and Probation (includes and 2% inflation) |
|---------|-------------------------|------------------|---------------------------------------|-------------------------|------------------|--|---|
| Year 1 | (8) | (\$6,206) | \$41,373 | 10 | absorbed | \$0 | \$41,373 |
| Year 2 | (10) | (\$6,206) | \$63,301 | 12 | absorbed | \$0 | \$63,301 |
| Year 3 | (12) | (\$6,206) | \$77,481 | 14 | absorbed | \$0 | \$77,481 |
| Year 4 | (14) | (\$6,206) | \$92,202 | 16 | absorbed | \$0 | \$92,202 |
| Year 5 | (16) | (\$6,206) | \$107,481 | 18 | absorbed | \$0 | \$107,481 |
| Year 6 | (18) | (\$6,206) | \$123,335 | 10 | absorbed | \$0 | \$123,335 |
| Year 7 | (20) | (\$6,206) | \$139,779 | 10 | absorbed | \$0 | \$139,779 |
| Year 8 | (22) | (\$6,206) | \$156,832 | 10 | absorbed | \$0 | \$156,832 |
| Year 9 | (24) | (\$6,206) | \$174,512 | 10 | absorbed | \$0 | \$174,512 |
| Year 10 | (26) | (\$6,206) | \$192,835 | 10 | absorbed | \$0 | \$192,835 |

| <u>FISCAL IMPACT - State Government</u> | FY 2019 (10 Mo.) | FY 2020 | FY 2021 | Fully Implemented (FY 2028) |
|---|---------------------|---------|---------|-----------------------------------|
|---|---------------------|---------|---------|-----------------------------------|

**GENERAL
REVENUE**

| | | | | |
|---|-----------------|-----------------|-----------------|------------------|
| <u>Savings - Department of Corrections - from reduced incarceration expense for offenders that meet the criteria in the proposal and are released</u> | <u>\$41,373</u> | <u>\$63,301</u> | <u>\$77,481</u> | <u>\$192,835</u> |
|---|-----------------|-----------------|-----------------|------------------|

| | | | | |
|---|------------------------|------------------------|------------------------|-------------------------|
| ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND | <u>\$41,373</u> | <u>\$63,301</u> | <u>\$77,481</u> | <u>\$192,835</u> |
|---|------------------------|------------------------|------------------------|-------------------------|

| <u>FISCAL IMPACT - Local Government</u> | FY 2019 (10 Mo.) | FY 2020 | FY 2021 | Fully Implemented (FY 2028) |
|---|---------------------|-------------------|-------------------|-----------------------------------|
| | <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 70 years of age or older who has no prior felony convictions of a violent nature, 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 25 years or more of his or her sentence.

The Board of Probation and Parole within the Department of Corrections 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.

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

Ross Strobe



Acting Director
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