

Department of Planning and Budget 2004 Fiscal Impact Statement

1. Bill Number **SB 83**

House of Origin	<input checked="" type="checkbox"/> Introduced	<input type="checkbox"/> Substitute	<input type="checkbox"/> Engrossed
Second House	<input type="checkbox"/> In Committee	<input type="checkbox"/> Substitute	<input type="checkbox"/> Enrolled

2. Patron Puller

3. Committee Rehabilitation and Social Services

4. Title Residential community corrections programs

5. Summary/Purpose:

Current law authorizes the Department of Corrections (DOC) to place nonviolent offenders, who have been sentenced to a term of at least three years, in a residential community program, work release, or a community-based program within six months of such prisoner's release date. Any wages earned by such offenders on work release shall be used to defray the cost of the offender's keep, to pay costs of participation in the community program, to pay child support, and to pay fines and other court costs. Any balance would be paid to the offender upon his release.

The proposed legislation would require DOC to place all nonviolent offenders in such programs for a period of six months or 10 percent of their original sentence, whichever is less, prior to their release date. It would limit the amount of an offender's wages withheld to defray the costs of his keep to 30 percent.

6. Fiscal Impact: Preliminary. See Item 8.

7. Budget amendment necessary: Yes.

8. Fiscal implications:

This legislation will likely have a short-term cost, but could also result in long-term savings. However, because the relationships between local and state correctional systems in the Commonwealth are complex and dynamic, it is not feasible to project any potential costs or savings of the proposed legislation until the details of its implementation are delineated.

Although DOC does not have easily accessible data on the offenses of those inmates who are released, it is possible to develop a reliable estimate of how many inmates this legislation would affect. The basic assumption for this estimate would be that offenders with sentences of five years or less would constitute most of the offenders meeting the nonviolent criteria. In FY 2003, according to DOC, approximately 7,500 offenders with a sentence of up to five years were released. Those with five-year sentences would be in the "prerelease" programs, required by the proposed legislation, for six months. Those with short sentences would be in

those programs a shorter period of time. DOC believes it reasonable to assume that about half, or 3,750 inmates, would be in the community “prerelease” programs at any one time.

DOC is currently operating several small-scale prerelease programs for nonviolent inmates:

- Jail work release—225 beds. Inmates are placed in local jails under a contract with the sheriff or jail administrator and participate in work release.
- Jail prerelease—125 beds. Under agreements with jails, inmates with 90 days left on their sentences are placed in jails. They participate in transition programs for 45 days and work release for the remaining 45 days.
- Transitional therapeutic community (TTC)—80 beds. Inmates participating in therapeutic community (TC) treatment programs in prison are placed in community residential TC programs about 90 days before their release dates. In those programs, they continue to participate in TC programs, receive other transition services, and work in jobs in the community.
- Halfway houses—70 beds. Inmates are placed in community residential facilities, receive some transitional services, and work in jobs in the community.

The Governor’s budget proposal contains funds to add 100 beds to the TTC program and 250 beds to the jail prerelease program during the next biennium. Based on the assumption that approximately 3,750 inmates would be in “prerelease” status in community programs at any one time, DOC would need an extra 2,900 beds in FY 2005 to implement this legislation.

The most immediate means of implementing the bill would be to place all the “prerelease” inmates in jail work-release programs. Jails typically hold a large number of state responsible inmates who could be moved to DOC facilities and replaced with work release inmates. By law DOC is supposed to transfer state responsible inmates to DOC facilities within 60 days of being notified of the final court order. Currently, there are approximately 1,800 state responsible inmates in jails who have been there for less than 60 days since their final court order. In addition, there are approximately 2,700 who have been there beyond the 60-day limit, usually referred to as “out of compliance” inmates.

Placing the 2,900 additional “prerelease” inmates in jail work release programs would have a significant fiscal impact. Under current law, the Compensation Board reimburses localities \$8 per day for each state responsible inmate in jail for less than 60 days and \$14 per day for each out of compliance inmate. Work release inmates are placed in jails under agreements worked out with sheriffs and the Compensation Board reimburses localities \$28 per day for those inmates. Work release inmates pay a portion of their wages to offset the costs of their housing, but this revenue is retained by the sheriff. Therefore, assuming that only out of compliance inmates could be swapped for jail release inmates, the cost to the state would be an additional \$14 per day for an average 2,900 inmates per day--\$14.8 million annually. If sheriffs or regional jails were required to accept work release inmates at the same rate—\$14 per day—paid for out of compliance inmates, there would be no additional cost.

It is uncertain that jails have the capacity to expand their work release programs sufficiently to accommodate such a significant increase in the number of work-release

inmates. Implementing a work-release program includes, among other requirements, coordinate with private employers to secure and approve appropriate jobs, arranging transportation for inmates, monitoring inmates on the job, and screening inmates when they leave for their jobs and return to the jail. If a jail work-release program is significantly increased, the administrative costs will increase, as well.

Another means of implementing this legislation would be to expand DOC's diversion center program. Diversion centers now house offenders who have been placed on probation by the court and placed in those facilities as an alternative to being incarcerated in a prison. At diversion centers offenders participate in treatment programs and in work release. DOC has converted several facilities, which were formerly low security field correctional units, to diversion centers. If one takes into account how many total inmates are housed by a diversion center over the period of a year, those facilities are less expensive to operate than a correctional facility.

To expand the diversion center program to implement this legislation, DOC could convert additional field units or work centers into prerelease centers. Work centers are low security dormitory facilities. Nonviolent inmates housed in these facilities are assigned to various work projects in the surrounding communities. There are approximately 4,200 beds in these two types of facilities. To convert them to prerelease program beds would seriously deplete the number of low security beds available to DOC for low security inmates who are not within six months of their release date. An alternative to converting field units or work centers to prerelease centers would be to build a series of dormitory facilities around the state, similar to the work centers. It would take about two years to accomplish this task and additional capital funds would be needed.

The state responsible offender population, currently about 31,000, is projected to grow at an average rate of about four percent annually over the next six years. DOC will need additional prisons to house these additional inmates. Currently, the cost to build a 1,000-bed, medium security is \$65-70 million, and the operating cost is \$17-19 million a year. The proposed legislation's requirement that all nonviolent offenders within six months or less of their release be placed in community programs, rather than housed in correctional facilities, would reduce the need for additional prisons in the future. DOC would have to significantly expand its community corrections programs and facilities and there would be a cost to do that, but these additional costs would be less than the future costs of housing these offenders in prisons that need to be built.

In summary, the legislation would require additional funding for DOC in the short term, but, over the long-term, there could be significant savings for the state. Without additional information on how the proposal would be implemented, it is not now feasible to provide any estimate of the possible size any short-term costs or long-term savings, however.

9. Specific agency or political subdivisions affected:

Department of Corrections
Local and regional jails

10. Technical amendment necessary: None.

11. Other comments:

The proposed legislation is identical to HB 223 and SB 43.

Date: 02/06/04 / rwh

Document: G:\LEGIS\Fis-04\SB83.DOC Dick Hall-Sizemore

cc: Secretary of Finance
Secretary of Public Safety