

Department of Planning and Budget 2006 Fiscal Impact Statement

1. Bill Number SB 105

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 Marsh

3. Committee Rehabilitation and Social Services

4. Title Prison good conduct allowance; functional literacy

5. Summary/Purpose:

The proposed legislation has two primary purposes—the establishment of a good conduct allowance system for state inmates and of a mandatory functional literacy program for state inmates.

Good conduct allowances

Currently, state law provides that an inmate can earn up to 4.5 days credit for each 30 days served. The credit is applied to the time the inmate has to serve on his sentence. The proposed legislation would enable an inmate to earn good conduct allowances in addition to this service credit, thereby further decreasing the length of time he actually has to serve on his sentence. The allowances would be based on an inmate's conduct, initiative in performing assigned jobs or tasks, and progress toward earning an educational or vocational certificate. The bill would establish the following system of classification for good conduct allowances:

- Class I—exemplary conduct. 15 days credit for each 30 days served.
- Class II—Satisfactory conduct. 10 days credit for each 30 days served.
- Class III—Marginal conduct. 5 days credit for each 30 days served.
- Class IV—Unsatisfactory conduct. 0 days credit for each 30 days served.

Mandatory functional literacy

The bill directs the Department of Corrections (DOC) and the Department of Correctional Education (DCE) to establish, by January 1, 2007, a program under which all functionally illiterate inmates would be required to participate in a program for a mandatory period sufficient to provide each inmate the opportunity to achieve functional literacy. Non-English-speaking inmates would be required to participate in an English-As-A-Second Language program, if available, until they performed at the equivalence of the eighth grade.

6. Fiscal Impact: Preliminary. See Item 8.

7. Budget amendment necessary: Yes. Item 302.

8. Fiscal implications:

The proposed legislation could have significant fiscal effects. However, it is not feasible to provide any credible estimate of those potential effects. The possible effects are discussed below:

Good conduct allowances

Currently, each inmate sentenced for a crime committed after January 1, 1995 must serve at least 85 percent of his sentence—he is not eligible for parole and the number of earned sentence credits is limited to 4.5 days per 30 days served. For crimes committed before that date, offenders can earn higher good time credits and are eligible for parole. The majority of inmates in Virginia’s prisons are serving sentences for crimes committed after January 1, 1995. If the proposed legislation were enacted, the actual time served by those inmates could be reduced significantly. To the extent that inmates would be in prison for shorter periods of time, there would be a reduction of the “stacking effect,” and the total prison population at any given time would be reduced from what it would have been if inmates had to serve at least 85 percent of their sentences.

If there were a significant reduction in the proportion of their sentences actually served by a lot of inmates, it could result in fewer new prisons being built than would otherwise be needed. Therefore, there could be significant savings in capital and operating costs in the future. However, because it is not known to what extent inmates would earn the higher good conduct allowances under the proposed system and how much their sentences would be reduced, it is not feasible to estimate the potential savings.

Another factor making it difficult to estimate the impact of the proposed good conduct allowance system is the uncertain impact it could have on judges’ sentencing behavior. The state has established a system of guidelines to use in setting the sentences for offenders. The guidelines are based on actual time served for offenses during the years immediately preceding the development of the guidelines and on statutory enhancements provided for violent offenses. One major purpose of the guidelines is to bring consistency to sentences for similar crimes. Utilization of the guidelines by judges is voluntary, but judges comply with the guidelines about 80 percent of the time. One of the factors that has made the sentencing guidelines system successful has been the state’s adoption of the principle of “truth in sentencing.” Under this principle, judges and the public are aware that an offender will actually serve all or almost all of the sentence imposed by a judge. If a new system of good conduct allowances were established, judges might begin to take into account potential sentence reductions in their determinations of what sentences to impose, thus imposing higher sentences than they would have otherwise and thereby partially offsetting any reduction in time served by offenders due to earning higher good conduct allowances. Because it is impossible to predict the extent to which judges would alter their sentencing practices, the effect of the proposed legislation is even more uncertain.

Functional literacy

The Department of Correctional Education (DCE) currently has a functional literacy program in each major correctional institution. However, the department does not have enough teachers to enroll all those inmates who are functionally illiterate. It reports that there are 3,840 inmates on its waiting lists for functional literacy classes. To provide classes to serve all these inmates, the department estimates that it would need an additional 64 teachers, at an annual cost of approximately \$4.0 million. There would be an additional one-time cost of \$1.2 million for equipment, furniture, and materials.

These estimates assume that a mandatory functional literacy program would provide all inmates on the waiting lists an immediate opportunity to achieve functional literacy. However, the provisions of the proposed legislation could be satisfied with a less comprehensive approach. DOC could require only that all functionally illiterate inmates participate in a functional literacy program sometime before being released from prison. Under such a policy, DCE could concentrate its immediate efforts on those inmates with two years or less to serve on their sentences, or whatever period was judged necessary to achieve functional literacy. Furthermore, DOC could adopt a policy of housing functionally illiterate inmates with only two years or less to serve in specified facilities, thereby improving the efficiency of DCE's efforts. It is probable that DCE would need additional teachers even under these circumstances. However, the release dates of the 3,840 functionally illiterate inmates are not known and it would be difficult and time-consuming to ascertain those dates. Therefore, until DCE can determine the period of time that would reasonably be needed by most eligible inmates to achieve functional literacy and DOC can determine how many of those inmates have that much time (plus a reasonable margin) left to serve, the additional funds needed by DCE to comply with the proposed bill cannot be determined.

There is another factor that should be kept in mind when assessing the potential overall fiscal impact of this legislation. It is reasonable to assume that inmates who are at least functionally literate are likely to have greater success in adjusting to society when they have finished their sentences and are released than those inmates who are not functionally literate. They will probably be more likely to obtain jobs and become productive members of society and less likely to commit new offenses. Thus, the indirect long-range fiscal impact of the legislation could offset its direct, immediate costs. However, projecting such long-range, indirect effects is a complex undertaking and there is not enough information available to make a credible projection at this time.

9. Specific agency or political subdivisions affected:

Department of Corrections
Department of Correctional Education

10. Technical amendment necessary: None

11. Other comments: None.

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