

## **Department of Planning and Budget 2014 Fiscal Impact Statement**

**1. Bill Number: SB 125**

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: Marsden**

**3. Committee: Senate Courts of Justice**

**4. Title: Modification of sentences for offenses committed by juveniles**

**5. Summary:**

Under current law, a life sentence is required for persons convicted of the following offenses:

- a. Willful, deliberate, and premeditated killing of a person, if the offender were under 18 years old at the time of the offense. (For persons over 18 years of age, the death penalty is a statutory option.);
- b. A second or subsequent commission of a specified violent felony sexual assault; and
- c. A third or subsequent commission of certain specified acts of violence.

The proposed legislation would enable any offender currently incarcerated for one of these offenses to petition the circuit court in which his conviction occurred for a modification of the sentence to a Class 2 felony. The statutory sentencing range for a Class 2 felony is 20 years to life.

After providing the attorney for the Commonwealth, any victims, and the offender opportunity to respond to the petition and present evidence, the court would have the authority to determine whether, and to what extent, the offender's sentence should be reduced, including to time served. The court's decision would not be subject to appeal or otherwise reviewable by any party. An offender could file a petition for sentence reduction only once per conviction.

**6. Budget Amendment Necessary: None.**

**7. Fiscal Impact Estimates: Minimal. See Item 8 below.**

**8. Fiscal Implications:**

The proposed legislation could result in freeing up beds in facilities operated by the Department of Corrections. However, the fiscal effect would be minimal because the number of offenders who would be eligible to file a petition for sentence modification is small and it is not possible to make a credible projection of how many offenders the courts

would release or to what extent their sentences might be reduced. Furthermore, there is a backlog of state-responsible inmates being held in jails and any available prison bed would be filled from that back-log. Any potential savings for the state would accrue in the form of a reduction in the amount of per diem payments the Compensation Board would need to make to local and regional jails for housing state-responsible inmates. Currently, the payment rate for state-responsible inmates is \$12 per day.

Currently, there are 41 offenders serving a mandatory life sentence in the Department of Corrections for a murder committed before the offender was 18 years old.

**9. Specific Agency or Political Subdivisions Affected:** Department of Corrections

**10. Technical Amendment Necessary:** None.

**11. Other Comments:** None.

**Date:** 1/13/2014

**Document:** G:\LEGIS\fis-14\sb125.docx Dick Hall-Sizemore