BILL SUMMARY

1st Session of the 57th Legislature

Bill No.: HB 1269
Version: INT
Request Number: 5667
Author: Rep. Dunnington
Date: 2/12/2019

Impact: Estimated cost aversion for DOC between

\$900,000-\$1.3 million (for possession), possible short-term increase in workload for DOC, DAs, OIDS, and the District Courts

Research Analysis

HB 1269 would apply the provisions of SQ 780 retroactively. The measure requires courts to set aside the judgment and sentence and resentence certain persons convicted of certain drug crimes that if committed on or after July 1, 2017 would have been a misdemeanor. The Department of Corrections is to identify persons to which retroactivity may apply. The measure provides that a hearing to modify a sentence is not to be conducted unless requested by the person. The bill provides for resentencing within 3 months of receipt of the report prepared by the Department of Corrections. The measure requires the Department of Corrections to compile and distribute a report every 3 months to each presiding judge of the district courts listing the individuals convicted of an offense subject to these proceedings.

Prepared By: Brad Wolgamott

Fiscal Analysis

HB 1269, which applies the provisions of SQ 780 retroactively, will have an impact on several state agencies- both positive and negative. A large percentage of inmates currently incarcerated for drug possession will be eligible for release without a court hearing. However, those convicted of property crimes are required to petition the court to have sentences changed. This is due to a lack of a centralized database with specific inmate case information- information which will have to be pulled from physical files and reviewed on a case by case basis by DOC or the DAs. There will be a short-term cost for: DOC, DAs, OIDS, and the district courts. Once the majority of existing cases are processed, the cost will sharply decrease. With a large amount of inmates currently incarcerated, who, once re-sentenced, will be eligible for immediate release, there will be a savings for DOC. The exact impact is dependent upon how many inmates request to be resentenced and how many are released from DOC custody.

State Agency Responsibilities with Possible Costs/Savings:

Department of Corrections: DOC estimates a cost aversion of \$900,000-\$1.3 million for possession charges alone depending on the effective date of the measure. See "Other Considerations" below for methodology. They do not currently have data on the property crimes. That impact is unknown.

District Courts: required to re-sentence within 3 months- could increase dockets for the short-term. Judges and court staff are both salaried and hourly state employees: possible increase in overtime and/or compensatory time.

District Attorneys: possible short-term increase in workload for determining property crime eligibility and re-sentencing procedure. The DAs and ADAs and their staff are both salaried and hourly state employees: possible increase in overtime and/or compensatory time.

Indigent Defense Fund: required representation for any indigent inmates requesting resentencing. These defense attorneys are currently paid an average of \$490.35 per case.

Prepared By: Kristina King

Other Considerations

Methodology provided by DOC on 3/11/19 at 12:11pm and has not been reviewed by Fiscal Staff.

Fiscal Impact 780 Retroactive - Pr	epared 3/11/1	19				-0.7 (001)(101)	lour-m		Lancon and the second		1	
Assumes Effective Date for Relea			1/2019									
Number of Inmates Affected	T		T .					1				
	2/28/2019	1/22/2019	10/9/2018					1		1/2	-	
Days Between Reports	per of Inmates	37				Number of Days Between 10/9/18 and 2/28/19	Average Inmate Attrition Per Day (e.g., 206/142)	Number of Days Between 2/28/19 and 11/1/19	Estimated Inmate Attrition Between 2/28/19 and 11/1/19 (e.g., 1.45 x 246)	Estimated Possession Inmates in DOC Custody on 11/1/19 (e.g., 921 - 357)	Estimated Possession Inmates Within 90 Days of Release on 11/1/19 (e.g., 1.45 x 90 days). See Note 4.	Estimated Affected Inmates with More Than 90 Days Remaining Until Release on 11/1/19 (e.g., 564 - 131).
	921		4.437		200							
Only Possession					206							
Controlling Possession	978				189							
Any Possession	2,890	3,050	3,208	222 2230	318	142	2.24	246	551	2,339	202	2,138
Cost Aversion	-											
	Affected Inmates	Average Possession Sentence Length in Days	Average Proportion of Sentence Served Based on 2018 Releases (Includes jail time credit + days served between date of sentencing and release).	Estimated Number of Days to be Served (e.g., 2,936 x 46.10%)	jail time credit + Days Through 2/28	11/1/19 + 90 days)	Days That Would Have Been Served After 11/1/19 + 90 days (e.g., 1,354 - (999 + 336)	Average Days That Would Have Been Served Per Inmate X Inmates (e.g., 434 x 19)	See Note 5.	Estimated Averted Cost (e.g., 8,246 x \$13.40)		
Only Possession	434			1,354					\$13.40	\$110,496.40		
Controlling Possession	531			1,762		336						
2nd Controlling Offense	531			1,571	964	336						
Reduction in Time from Possessio	n Controlling t	to 2nd Contro	lling				111	58,941	\$13.40	\$789,809.40		
Total Estimated Cost Aversion										\$900,305.80	See Note 6.	
Notes:												
1. As a result of the legislation th	e Only Possess	ion group wil	exit following sentence	modification								
2. The Controlling Possession gro	up has one or	more additio	nal convictions for crime	s other than i	Possession; however, th	ne possession crime is t	he longest sentence cu	rrently being served.	1000			0.50.55.000
The legislation would reduce the											- T-W-13(E)	10 100
3. The Any Possession group has								son.		11111111111		
4. HB 1269 (page 6, lines 12-14) s												
less than the alotted time remain			6000000									
5. Cost Aversion is limited to the	marginal cost	per day per in	mate. Utilization of the	full cost per o	lay assumes the closure	of housing units, elim	ination of staff, etc.					Parameter .
The reality is that temporary bed											Tenangan or see-	
6. Averted costs would be reallo						maintenance).						
Days Between 2/28/19 and 11/1/19	2/28/2019	11/1/2019	246								100	

Fiscal Impact 780 Retroactive - F	repared 3/11/	19				Γ	T	T	T	T	T	
Assumes Effective Date for Rele			/1/2019									
Number of Inmates Affected			ř – – – – – – – – – – – – – – – – – – –									100
	2/28/2019	1/22/2019	10/9/2018						2 100			
Days Between Reports	imber of Inmat	37	105		Decrease in Number of Affected Inmates Between 10/9/18 and 2/28/19	Number of Days Between 10/9/18 and 2/28/19	Average Inmate Attrition Per Day (e.g., 206/142)	Number of Days Between 2/28/19 and 11/1/19	Estimated Inmate Attrition Between 2/28/19 and 11/1/19 (e.g., 1.45 x 246)	Estimated Possession Inmates in DOC Custody on 11/1/19 (e.g., 921 - 357)	Estimated Possession Inmates Within 45 Days of Release on 11/1/19 (e.g., 1.45 x 45 days). See Note 4.	Estimated Affected Inmates with More Than 45 Days Remaining Until Release on 11/1/19 (e.g., 564 - 131).
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Only Possession	921				206							
Controlling Possession	978				189							
Any Possession	2,890	3,050	3,208		318	142	2.24	24	551	2,339	101	2,231
Cost Aversion											-	
	Number of Affected Inmates	Length in Days	date of sentencing and release).	Estimated Number of Days to be Served (e.g., 2,936 x 46.10%)	Actual Days Served = jail time credit + Days Through 2/28	Estimated Days Until Releases Under New Statute (days between 2/28 and 11/1/19 + 45 days)	Days That Would Have Been Served After 11/1/19 + 45 days (e.g., 1,354 - (999 + 291)	Average Days That Would Have Been Served Per Inmate X Inmates (e.g., 499 x 64)	FY 18 Actual Marginal Cost Per Day = medical, food, clothing/linen/personal supplies and inmate pay. See Note 5.	Estimated Averted Cost (e.g., 31,936 x \$13,40)		
Only Possession	499	2,936	46.10%	1,354	999	291	64	31,93	\$13.40	\$427,942,40		
Controlling Possession	591	3,679	47.89%	1,762	1,044	291	427	7			1	
2nd Controlling Possession	591		52.13%	1,571	964	291	316	5				
Reduction in Time from Controlli	ng to 2nd Cont	olling			200000		111	65,60	\$13.40	\$879,053.40		
Total Estimated Cost Aversion										\$1,306,995.80	See Note 6.	
												10000
Notes:			la constitution of the con	1								
As a result of the legislation to								1			1	
2. The Controlling Possession gro								ng served.				
The legislation would reduce the								-				
3. The Any Possession group has												
4. HB 1269 (page 6, lines 12-14) less than the alotted time remain		ırt snail resen	tence each personwithin t	nree (3) months	Assumption made th	at inmates with less than	45 days remaining will	nave				
5. Cost Aversion is limited to the			I I I I I I I I I I I I I I I I I I I		Land the demand of hear	alam codes altroduction of a				-		
The reality is that temporary bed						sing units, elimination of s	tan, etc.		 			
Averted costs would be realled							CONTRACTOR OF THE PARTY OF THE		 			and the second
b. Averted costs would be reallo	Lateu to other	incendided ;	areas (e.g., statt salary aujus	uneins, medica	i, priysicar prant mainten	ancej.						
Days Between 2/28/19 and								5.				
11/1/19	2/28/2019	11/1/2019	246									

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