



**2010 General Assembly:
Budget Provision for
Early Release of Nonviolent Felons**

Budget Item 380(H) – Department of Corrections

- **The budget new provision gives the Director of the Department of Corrections the authority to release certain nonviolent inmates up to 90 days prior to the expiration of the inmate's sentence**

- **To qualify, an inmate:**
 - **Must not have any current or prior convictions for a violent felony as defined in § 17.1-805;**
 - **Must have received a sentence of 15.5 months or more; and**
 - **Must be incarcerated for at least one year prior to release**

- **Otherwise, the provisions of § 53.1-28 apply**

§ 53.1-28 - Authority to Fix Discharge Date (Current Law)

- **For the purpose of scheduling and providing a uniform, effective and continual program of pre-release training and conditioning of prisoners, the Director has authority to discharge any state inmate on any day within a period of 30 days prior to the expiration of the inmate's term**

Estimated Impact of the Provision

- **DOC estimated that, in the first year, the impact would be a total reduction of 596 beds**
- **At \$12 per day, the proposed new jail per diem rate, the savings were estimated to be \$2.6 million**
 - **This would be a one-time savings in FY2011, with little, if any, savings in subsequent years**
- **To calculate the impact, DOC did not apply the early release provision to inmates convicted of manufacturing or distributing Schedule I-VI drugs or marijuana**
- **DOC assumed that qualifying inmates would be released the full 90 days prior to the end of the inmate's sentence**

Estimated Impact of the Provision

- **DOC did not obtain complete criminal history information (Virginia and out-of-state)**
 - **DOC examined only those crimes for which the offender had served a prison term in a Virginia facility**
 - **This does not capture other convictions in an inmate's criminal record (such as those resulting in a jail sentence) that may disqualify him from early release**

Effects on Time Served by State Inmates

Sentence (in months)	TIME SERVED (in months)		
	85% of Sentence (Truth-in-Sentencing)	Applying 30 days early release under current law	Under new budget provision
12	10.2	9.2	9.2
13	11.1	10.1	10.1
14	11.9	10.9	10.9
15	12.8	11.8	11.8
16	13.6	12.6	12.0
17	14.5	13.5	12.0
18	15.3	14.3	12.3
19	16.2	15.2	13.2
20	17.0	16.0	14.0

Effects on Time Served by State Inmates

- **For inmates sentenced to relatively short prison terms, the percentage reduction in length-of-stay would be sizable**
 - **For example, an inmate sentenced to 18 months in prison could be released after serving as little as 12.3 months (or 68.3%) of his sentence**
- **Qualifying offenders given sentences ranging from 15.5 through 17.6 months could all serve exactly 12 months (the minimum required under the provision), despite having different lengths of sentences**

Effects on Time Served by State Inmates

- **An offender given a 15.4-month sentence, which would not qualify under the proposal, would have to serve a minimum of 12.1 months**
- **A qualifying offender given a 17-month sentence under the proposal could serve as little as 12 months**
- **This means that the offender with the 17-month sentence will have a shorter length-of-stay despite having been given a longer sentence by the court**

Effective Date of Early-Release Provision

- **The new budget provision governing the early release of nonviolent felons will take effect on July 1, 2010**
- **Because it is in budget language, the provision will remain in effect through the FY2011-FY2012 biennium (unless otherwise amended by the 2011 General Assembly)**
- **The provision will expire at the end of FY2012 (June 30, 2012)**
 - **To continue beyond that date, authorizing language would have to be inserted into the FY2013-FY2014 budget**

