



Department of Public Safety and Correctional Services

Office of the Secretary

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STATE OF MARYLAND

December 1, 2021

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The Honorable Guy Guzzone
Chair, Senate Budget and Taxation Committee
3 West Miller State Building
Annapolis, Maryland 21401-1911

The Honorable Maggie McIntosh
Chair, House Appropriations Committee
House Office Building, Room 121
Annapolis, Maryland 21401-1911

RE: Joint Chairmen's Report – Justice Reinvestment Act Report

Dear Chair Guzzone and Chair McIntosh:

The 2021 Joint Chairmen's Report requires the Department of Public Safety and Correctional Services to submit a report on Justice Reinvestment Act Initial Data. The following language requirements can be found on page 146 of the Joint Chairmen's Report.

Justice Reinvestment Act (JRA) Report: The committees request that the Department submit a report on the following:

- annual updates on the number of offenders petitioning and approved for new Justice Reinvestment Act Report (JRA) provisions including, but not limited to, administrative release, medical/geriatric parole, certificates of rehabilitation, and graduated sanctions;
- the number of offenders affected by new diminution and earned compliance credit rules; and
- annual JRA cost savings updates along with any efforts/initiatives to increase savings

Attached is the Department's submission in satisfaction of the reporting requirements.

I hope this letter and the attachments meet with your approval. If the Department or I can be of further assistance, please do not hesitate to contact me or Jennifer Beskid, Director of Government and Legislative Affairs at Jennifer.beskid@maryland.gov.

Sincerely,

A handwritten signature in dark ink, appearing to read "Robert L. Green". The signature is fluid and cursive, with the first name "Robert" being more prominent than the last name "Green".

Robert L. Green
Secretary

Attachment

cc: Members of the Senate Budget and Taxation Committee
Members of the House Appropriations Committee
Ms. Amelia Chassé Alcivar, Chief of Staff, Governor's Office
Mr. Keiffer Mitchell, Senior Counsel and Chief Legislative Officer, Governor's Office
Ms. Erin Chase, Deputy Legislative Officer, Governor's Office
Mr. Kenneth Weaver, Policy Analyst, House Appropriations Committee
Mr. Matthew Bennett, Counsel, Budget and Taxation Committee
Ms. Sarah Albert, Department of Legislative Services
Ms. Cathy Kramer, Department of Legislative Services
Mr. Cristina Jorge-Tuñón, Budget Analyst, Department of Budget and Management
Mr. Jacob Cash, Policy Analyst, Department of Legislative Services



**DEPARTMENT OF PUBLIC SAFETY AND
CORRECTIONAL SERVICES**

Justice Reinvestment Act Report

December 2021

Governor Larry Hogan
Lt. Governor Boyd K. Rutherford
Secretary Robert L. Green

I. INTRODUCTION

The Budget Committees requested the Department submit a report on Justice Reinvestment Initial Data. The language found on page 146 of the 2021 Joint Chairman's Report specifically states:

Justice Reinvestment Act (JRA) Report: The committees request that the Department submit a report on the following:

- annual updates on the number of offenders petitioning and approved for new JRA provisions, including, but not limited to administrative release, medical/geriatric parole, certificates of rehabilitation, and graduated sanctions
- the number of offenders affected by new diminution and earned compliance credit rules, and
- annual JRA cost savings updates along with any efforts/initiatives to increase savings.

Senate Bill 1005, known as the Justice Reinvestment Act (JRA) was signed into law during the 2016 legislative session and became effective on October 1, 2017. The JRA aims to reduce Maryland's prison population and use the savings for more effective treatment for offenders prior to, during and upon release from incarceration. Using a data-driven approach to develop a statewide framework of sentencing and correctional policies, the JRA is intended to reduce recidivism and decrease the inmate population; as well as benefit victims and families.

The Department of Public Safety and Correctional Services (Department) is pleased to provide the committees with an update on the implementation of JRA.

I. ADMINISTRATIVE RELEASE

The Maryland Parole Commission (MPC) may release an eligible inmate under the Administrative Release process after serving one-fourth of their sentence, if they meet specific requirements and receive specified authorization. An inmate may be considered for the administrative release process if they are serving a sentence for possession of a controlled dangerous substance (CDS), possession of CDS with the intent to distribute, distribution of CDS, or any theft offense under \$1,500 imposed on or after October 1, 2017. Inmates are considered ineligible if they have a prior conviction for a crime of violence, sex offense, possession of CDS with the intent to distribute, or distribution of CDS. Inmates can also be excluded for consideration if they commit an infraction or fail to adhere to their case plan. The following provides a breakdown of the number of inmates screened and released through the Administrative Release process since the JRA effective date of October 1, 2017.

- 2,012 inmates statewide have been screened for administrative release.
 - 1,615 were determined to be ineligible.

- 397 were determined to be eligible
 - 205 of the inmates are in the Division of Correction (DOC)
 - 192 of the inmates are in the local detention centers
- Out of the 397 inmates determined to be eligible for Administrative release:
 - 329 have already been released.
 - 152 of the inmates who have already been released were released from the Division of Correction (DOC).
 - 177 of the inmates who have already been released were released from local detention centers.

II. MEDICAL AND GERIATRIC PAROLE

a. Medical Parole

An inmate may be considered for medical parole if they are chronically debilitated or incapacitated by a medical or mental health condition, disease, or deemed to be physically incapable of presenting a danger to society, and are serving a parole eligible-sentence. The inmate or an advocate of the inmate, including: their attorney; a prison official; a medical treatment provider; a family member; or, friend of the inmate, may file a request for medical parole with the MPC. The following provides a breakdown of the dispositions of these requests since the JRA effective date of October 1, 2017.

- 88 inmates have been approved for medical parole
 - 61 inmates have been released on medical parole
 - 17 inmates passed away prior to their release
 - 5 medical parole requests are pending release
 - 5 requests for medical parole for which the person did not meet the criteria
- 317 medical parole requests were denied by the Commissioner and/or Governor

b. Geriatric Parole

Inmates convicted of more than one crime of violence are subject to serve 25 years without parole or life without parole under Criminal Law Article § 14-101. Under this statute, these inmates may petition MPC for a parole hearing after serving a minimum of 15 years. The Justice Reinvestment Act (JRA) reduced the minimum age from 65 to 60 that an offender serving a sentence imposed under this statute would need to reach before applying. Since October 1, 2017, there have been 41 geriatric parole requests. One DOC inmate met the criteria for geriatric parole as defined under CR § 14-101 and the request was approved.

III. CERTIFICATES OF REHABILITATION

Under the JRA, the Department is required to issue a Certificate of Rehabilitation to certain applicants who have successfully completed their community supervision in order to restore their eligibility for occupational licenses and improve employment outcomes. Specifically, § 7-104 of the Correctional Services Article stipulates that the Department

shall issue a Certificate of Rehabilitation to an individual who has met the following criteria:

- was not convicted of a crime of violence as defined in § 14-101 of the Criminal Law Article OR of a sexual offense that requires the individual to register as a sexual offender under Title 11, Subtitle 7 of the Criminal Procedure Article;
- was supervised by the Division of Parole and Probation under conditions of parole, probation, or mandatory release supervision;
- has completed all special and general conditions of supervision including paying all required restitution, fines, fees and other payment obligations; and
- is no longer under the jurisdiction of the Division of Parole and Probation.

From October 1, 2020 through September 30, 2021, DPP received 12 applications for certificates of rehabilitation. All of which were fully investigated by Agents to determine whether the applicant satisfied all criteria of Correctional Services Article, § 7-104.

As a result of the 12 completed investigations, the DPP issued 10 certificates of rehabilitation and denied issuance of a certificate to the other three applicants. Of those two denied applications, one was denied because the applicant failed to pay all required restitution, fines, and fees. The second application was denied because the applicant was still under active supervision at the time of application.

With regard to the one applicant who was denied a certificate due to outstanding restitution, fines, and fees, this applicant may reapply once they have satisfied the outstanding payment obligations. In addition, the one applicant who was still under supervision at the time, can reapply once their supervision period has ended.

IV. DIMINUTION AND EARNED COMPLIANCE CREDITS

The JRA expanded the number of diminution credits inmates can earn while incarcerated and established additional criteria for awarding earned compliance credits (ECC) for offenders under supervision who comply with the terms of their supervision. With regard to diminution credits, the JRA increased the number of credits an inmate can earn from 20 to 30 days per calendar month for inmates who are not serving a sentence for a crime of violence, specified sexual offenses, or specified volume or kingpin drug offenses. In addition, except for that same group of inmates, the deduction for special selected work projects or other special programs, including recidivism reduction programming, increases from 10 to 20 days per calendar month. The JRA expanded the types of programs for which an inmate may earn diminution credits. The aforementioned provisions only apply to inmates that were sentenced on or after October 1, 2017.

From October 1, 2020 through September 30, 2021, 247 inmates were assigned JRA approved assignments. Those 247 inmates received 26,764 JRA diminution credits, or 36 days on average.

In terms of the ECC provisions, JRA amended the list of disqualifying crimes from which a person could not receive ECC's, enabling individuals convicted after October 1, 2017

of previously disqualifying CDS related crimes to earn ECCs. The JRA also required DPP to develop an automated application for the tracking and awarding of ECC. From October 1, 2020 through September 30, 2021, 35,600 supervision clients received a total of 3,661,416 ECC's, earning 103 days on average.

V. GRADUATED SANCTIONS

The JRA mandated that the DPP implement the use of a graduated sanction system in response to technical violations of conditions of supervision. During the implementation year, DPP adopted policies and procedures to implement the program and ensure that specified due process protections and supervisory guidelines are in place. Additionally, DPP is obligated to provide notice to the court or the MPC when an offender under supervision commits a technical violation and any graduated sanctions are imposed as a result. A technical violation is defined as a violation of a condition of probation, parole, or mandatory supervision that does not involve an arrest or a summons issued by a District Court Commissioner on a statement of charges filed by a law enforcement officer, a violation of a criminal prohibition other than a minor traffic offense, a violation of a no-contact or stay-away order, or absconding from supervision. Under the JRA, 'absconding' means willfully evading supervision and does not include missing a single appointment with a supervising authority.

From October 1, 2020 through September 30, 2021, 1,188 offenders received graduated sanctions and 65 received JRA Override Sanctions. An override sanction may be considered after a supervisory review is conducted and a determination has been made that a more appropriate sanction is warranted for the infraction. DPP continues to communicate and collaborate with MPC and the courts.

VI. ESTIMATED COST SAVINGS

The JRA aims to further reduce the inmate population and, in doing so, serve as a cost avoidance solution. Continuing to safely decrease the inmate population will reduce any need for additional correctional officers, related operational costs, and the need for deficiency funding. The DOC population has declined from 20,602 in fiscal year (FY) 2015 to 15,561 in FY 2021. Like most other states, Maryland has seen anomalous and significant decreases in population as the coronavirus pandemic has had an unforeseen impact on all public activity, arrest rates, and releases from incarceration. For this reason especially, the Department encourages cautious interpretation of the meaning and stability of the recent population trends.

The Department is able to calculate the avoided costs tied specifically to the JRA by looking at the release date of those inmates released under one of the provisions of the JRA, determining how many fewer days those inmates were incarcerated than they would have absent the passage of the JRA, and applying the inmate variable rate. The inmate variable rate constitutes those specific costs to the Department that are most impacted by a change in population. The FY 2021 inmate variable rate was \$3,548.30 per offender on an annual basis, or \$9.72 per offender per day. The Department uses the following formula to evaluate the cost avoidance for each provision:

$$FY\ 2021\ Daily\ inmate\ variable\ rate \times Fewer\ days\ served = Cost\ avoided$$

Specific Provision Cost Avoidance

From October 1, 2020 through September 30, 2021, inmates released from the DOC under the Administrative Release provision of JRA served 23,968 fewer days than they otherwise would have if they had not been Administratively Released. This totaled \$232,249.92 in avoided costs.

From October 1, 2020 through September 30, 2021, inmates released from the DOC on medical parole resulted in 54,084 fewer days served. Using the same calculation as the above totals, there was \$ 524,073.96 in avoided costs.

From October 1, 2020 through September 30, 2021 there were 26,764 fewer days served due to JRA assignment credits. This resulted in a total of \$259,343.16 in avoided costs.

Avoided Cost Totals

	<u>Fewer days served</u>	<u>Cost avoided</u>
Administrative Release:	23,968	\$ 232,249.92
Medical Parole:	54,084	\$ 524,073.96
JRA Assignment Credits:	26,764	\$ 259,343.16
Total:		\$ 1,015,667.04

It is important to note that the Department is unable to determine the potential cost avoidance related to the Earned Compliance Credits (ECCs) provision in the JRA. Because ECCs were in effect prior to the passage of the JRA, the Department is unable to isolate those cases awarded ECCs under the expanded eligibility criteria established by the JRA.