153rd GENERAL ASSEMBLY
FISCAL NOTE

BILL:	**SENATE SUBSTITUTE NO. 1 FOR SENATE BILL NO. 10**
SPONSOR:	**Senator Townsend**
DESCRIPTION:	**AN ACT TO AMEND TITLE 11 AND TITLE 29 OF THE DELAWARE CODE RELATING TO MODIFICATION OF SENTENCES OF INCARCERATION.**

Assumptions:

1. This Act, known as the "Richard 'Mouse' Smith Compassionate Release Act," becomes effective 180 days upon signature by the Governor.
2. This Act revises the process for sentence modifications.
   a. This Act removes the Board of Parole from the sentence modification process and provides that applications for sentence modifications are made directly to the sentencing court.
   b. This Act provides that an individual who is incarcerated for more than 1 year may seek a sentence modification in 3 circumstances: the application for a sentence modification is based solely on the person's serious medical illness or infirmity; the person is 60 years of age or older, has served at least 15 years of the originally imposed Level V sentence, and the application for sentence modification is based solely on the person's rehabilitation; or the person has served at least 25 years of the originally imposed Level V sentence and the application for sentence modification is based solely on the person's rehabilitation.
   c. This Act provides that an individual incarcerated for more than 1 year and whose sentence is reviewed by the Department of Correction (DOC) but whom the DOC does not recommend a sentence modification may apply to the court for a sentence modification.
3. An eligibility data analysis from the DOC, as of February 2025, shows that 2,498 individuals may be eligible to apply for a sentence modification under one of the circumstances in this Act. The number of individuals with serious medical illnesses or infirmities is indeterminable. An estimated 124 individuals aged 60 or older, with at least 15 years served or 25 years incarcerated, will be eligible for a sentence modification. Lastly, the DOC will be required to conduct and provide notice of annual reviews to 2,374 incarcerated individuals serving sentences of one year or more on a biennial basis. DOC anticipates providing these notices on a rolling basis based on the anniversary of a sentencing date.
4. The DOC anticipates that it will require additional personnel to perform institutional research, reviews, medical evaluations, and technology enhancements to comply with this Act. The DOC estimates it will incur the following costs to be compliant with this Act:
   a. Recurring Costs – $293,531 in the Fiscal Year 2026 Personnel Costs (8 months of funding), including OECs (at a rate of 33.34%), for 2.0 FTE, Inmate Classification Officer II; and 2.0 Advanced Practice Register Nurse.
   b. One-Time Costs – $191,680
      i. $26,680 estimated for computer, technology, and office furniture startup costs for the new positions.
      ii. $165,000 estimated for technology enhancements to specific Delaware Automated Correction System (DACS) system modules and iCHRT to comply with the provisions of this Act and generate necessary reports/queries and exporting of required annual data and related metrics defined in this Act to the SAC for yearly reporting requirements.

5. The Superior Court (the Court) projects that each eligible person may likely file an application, or the DOC will file an application on the person's behalf, and that those deemed ineligible may also file an application as allowed for in this Act. The Court anticipates an increase in filings and hearings due to the additional applications made to the clerk's office, which will require judicial review, data collection, docketing, and scheduling of a hearing(s) to determine specific findings for those deemed eligible. Additionally, this Act authorizes the Court to summarily dismiss an application if statements are omitted or dismissal is warranted. For this fiscal projection, it is assumed that the number of cases filed will increase incrementally over the next two years after enactment. The Court estimates it will incur the following costs to be compliant with this Act:

    a. Recurring Costs - $160,987 in the Fiscal Year 2026 Personnel Costs (8 months of funding), including OECs (at a rate of 33.34%), for 3.0 FTE, Judicial Case Manager III.

    b. One-Time Costs – $220,010

        1. $20,010 estimated for computer, technology, and office furniture startup costs for the new positions.

        2. $50,000 estimated to modify the existing space to accommodate the additional personnel.

        3. $150,000 estimated for the Judicial Information Center (JIC) for system programming needs for the new data capture, interfacing with the Statistical Analysis Center (SAC), and other court-side reporting needs.

6. This Act includes the right to counsel through the Office of Defense Services (ODS) provides. ODS anticipates the need for additional statewide personnel to manage the anticipated volume of applications and ensure comprehensive legal representation for clients potentially eligible for sentence modification, including those with medical needs. For this fiscal projection, it is assumed that the implementation and start-up of the provisions of this Act will occur over the next two years as the number of cases filed increases incrementally after enactment. The ODS estimates it will incur the following costs to be compliant with this Act:

    a. Year One (Fiscal Year 2026)

        i. Recurring Costs – $665,799

            1. $552,425 in the Fiscal Year 2026 Personnel Costs (8 months of funding), including OECs (at a rate of 33.34%), for 2.0 FTE, Assistant Public Defender V; 2.0 FTE, Legal Assistant III, 2.0 FTE, Forensic Social Specialist, and 1.0 FTE, Forensic Nurse.

            2. $113,374 for 9 months of anticipated funding for lease costs to house the additional positions, 8 months of anticipated funding for Fleet Services, and 6 months of expected costs for consultant/expert service needs, and Partners For Justice (PFJ) advocates for client wrap-around service needs.

        ii. One-Time Costs – $48,930 estimated for computer, technology, office furniture startup costs, and ODS database adjustments for the new positions.

    b. Year Two (Fiscal Year 2027)

        i. Recurring Costs – $1,199,708

            1. $845,210 to fully annualize personnel and operating costs for 7.0 FTE positions provided in Year One.

            2. $141,987 in the Fiscal Year 2027 Personnel Costs (9 months of funding), including OECs (at a rate of 33.34%), for up to 1.0 FTE, Assistant Public Defender V.

            3. $212,511 to fully annualize anticipated lease costs for the additional positions, Fleet Services, consultant/expert service needs, and Partners for Justice (PFJ) advocates for client wrap-around service needs.

        ii. One-Time Costs – $6,670 estimated for computer, technology, and office furniture startup costs for the new position.

7. While this Act may potentially generate savings for the State in the long term, driven by reduced incarceration population levels and reduced offender healthcare costs for those who are elderly and seriously ill, the correctional healthcare and behavioral healthcare services contracts are fixed-term negotiated contracts. There is language contained in the contracts to provide opportunities to revisit staffing and compensation should the average daily population fall below or exceed defined thresholds for two consecutive quarters; however, it is currently unknown if the population levels will become low enough to meet the specified threshold. Further, the State operating budget of the DOC is not explicitly and directly determined by the number of incarcerated people but rather by the fixed costs of operating the various DOC facilities. Over time, the DOC may experience indirect savings related to food, clothing, linens, or utility costs with a reduced population. However, those savings are unknown and indeterminable.
8. All Fiscal Year 2026 personnel costs have been estimated for eight months of funding based upon the implementation date of this Act and to allow adequate time for hiring and training, with the annualization of the remaining four months incorporated into subsequent year estimates. The Fiscal Year 2027 personnel costs for the projected new position have been estimated for nine months of funding, with the annualization of the remaining three months incorporated into subsequent year estimates. Additionally, a 2% inflation cost has been included for projected increases in salary, health insurance, and OECs in future years.

Cost:

	One-Time	**Operating/Recurring**
Fiscal Year 2026:	$460,620	$1,120,317
Fiscal Year 2027:	$6,670	$1,895,120
Fiscal Year 2028:		$1,977,048

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