

Department of Legislative Services
Maryland General Assembly
2001 Session

FISCAL NOTE
Revised

Senate Bill 91 (Senator Baker)

Judicial Proceedings

Judiciary

Criminal Sentencing - Custodial Confinement as a Condition of a Suspended Sentence or Probation

This emergency bill expands, statewide, the authority of the courts to impose “custodial confinement” as a condition of a suspended sentence, probation before judgment, or probation following judgment. Any time served by an individual in custodial confinement must be credited against any sentence of incarceration imposed by the court if the individual violates a term or condition of probation.

Fiscal Summary

State Effect: The bill defines “custodial confinement” to mean home detention, certain correctional options programs, or inpatient drug or alcohol treatment under existing provisions governing court ordered evaluations and voluntary treatment. The definition specifically excludes imprisonment. Accordingly, this bill will not have any impact on State incarceration costs or reimbursements to local governments for incarceration costs. It is assumed that the provisions of this bill would be carried out within the operating capacities of the various existing custodial confinement programs.

Local Effect: This bill would not have any impact on local incarceration costs. It is assumed that the provisions of this bill would be carried out within the operating capacities of the various existing custodial confinement programs.

Small Business Effect: Minimal. This bill’s effect on the operations of private home detention operators is not expected to be significant.

Analysis

Current Law: The authority of a court to impose a sentence of “confinement” as a condition of a suspended sentence currently exists in Calvert, Charles, and St. Mary’s counties. This authority applicable to probation before judgment is currently available to

a court in Allegany, Calvert, Charles, Garrett, Howard, and St. Mary's counties. This authority applicable to probation following judgment is currently available to a court in Charles, St. Mary's, Cecil, Harford, and Calvert counties.

Background: In August 1999, in the case of *Bailey v. State*, the Court of Appeals of Maryland found that home detention (or house arrest) is a form of confinement and, in the absence of statutory authority, a trial court lacks power to order home detention as a condition of probation.

Additional Information

Prior Introductions: Chapter 350 of 2000 granted the authority of a court to impose a sentence of confinement as a condition of probation before judgment in Howard County. Chapter 460 of 1998 granted the authority of a court to impose a sentence of confinement as a condition of probation before judgment in Allegany County and Garrett County. Similar bills (SB 25, SB 494, and HB 81) were introduced during the 2000 session. SB 494 was recommitted to the Senate Judicial Proceedings Committee after a favorable report, but had no further action taken on it. SB 25 and HB 81 went to conference. The House approved the conference report for HB 81 but no action was taken on it in the Senate. The House and Senate appointed conferences for SB 25 but no further action was taken. HB 1305 of 1998, which would have extended that authority in Anne Arundel County, was withdrawn without a hearing.

Cross File: None.

Information Source(s): Department of Public Safety and Correctional Services (Division of Correction), State Commission on Criminal Sentencing Policy, Department of Legislative Services

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Analysis by: Guy G. Cherry

Direct Inquiries to:
John Rixey, Coordinating Analyst
(410) 946-5510
(301) 970-5510