

Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 933

(Senator Smith)

Judicial Proceedings

Criminal Procedure - Pretrial Release - Presentment

This bill authorizes a defendant who is denied pretrial release by a District Court commissioner or who for any reason remains in custody after a District Court commissioner has determined conditions of release under Maryland Rule 4-216 to waive presentment before a District Court judge.

Fiscal Summary

State Effect: The bill is not expected to materially affect State finances, as discussed below.

Local Effect: The bill is not expected to materially affect local finances, as discussed below.

Small Business Effect: None.

Analysis

Current Law: A defendant who is denied pretrial release by a District Court commissioner or who for any reason remains in custody after a District Court commissioner has determined conditions of release under Maryland Rule 4-216 must be presented to a District Court judge immediately if the court is in session, or if the court is not in session, at the next session of the court.

State Expenditures: While the bill may reduce the number of bail review hearings before District Court judges, the bill is not expected to lead to reductions in personnel or significant reductions in staffing levels or operating expenditures for (1) the District Court;

(2) the Department of Public Safety and Correctional Services, which operates pretrial detention facilities in Baltimore City; or (3) the Office of the Public Defender (OPD), which represents indigent defendants at judicial bail review hearings. Any potential reductions in expenditures as a result of the bill are likely redirected to other needs within those agencies.

OPD represented defendants at 32,803 bail review hearings before District Court judges during fiscal 2016. According to data from OPD, the hearings resulted in the following outcomes: bail was increased at 9.9% of hearings, bail was reduced at 29% of hearings, bail remained unchanged at 42.3% of hearings, and the defendant was released at 18.7% of hearings. According to the office, to the extent that the bill results in OPD clients most likely to have their bail increased at a judicial bail review hearing waiving presentment before a District Court judge, then the bill may reduce pretrial detention times.

However, the Department of Legislative Services advises that if and to what extent this occurs cannot be reliably determined without actual experience under the bill and depends on several factors, including (1) the extent to which OPD can identify defendants who are likely to have their bail increased at a judicial bail review hearing; (2) whether defendants follow the advice of OPD and waive presentment; and (3) whether the defendant can afford the bail set by the District Court commissioner. The possibility also exists that any reduction in pretrial detention times that is generated by the bill is offset by defendants who waive presentment, but would have received reduced bail, or been released on recognizance had they chosen presentment before a District Court judge.

Local Expenditures: The bill is not expected to have a material effect on local finances, particularly expenditures for local detention facilities and State's Attorneys.

For the reasons stated in the State Expenditures section of this fiscal and policy note, it is unclear what, if any, cumulative impact the bill has on local pretrial detention times.

Additional Information

Prior Introductions: HB 1516 of 2016 was referred to the House Rules and Executive Nominations Committee. No further action was taken on the bill.

Cross File: None designated. However, HB 325 (Delegate Anderson – Judiciary) is identical.

Information Source(s): Judiciary (Administrative Office of the Courts); Office of the Public Defender; State's Attorneys' Association; Department of Public Safety and Correctional Services; Department of Legislative Services

Fiscal Note History: First Reader - February 23, 2017
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