

Department of Legislative Services
Maryland General Assembly
2018 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 593

(Senator Kelley)

Judicial Proceedings

Justice Reinvestment Act - Modifications

This bill makes various modifications and technical corrections to Chapter 515 of 2016, the Justice Reinvestment Act, relating to court procedures, sentencing, and membership on the Justice Reinvestment Oversight Board.

Fiscal Summary

State Effect: The bill's changes can be handled with existing budgeted resources. Any impact on affected State agencies is not anticipated to materially affect State finances.

Local Effect: Potential minimal operational impact on the circuit courts due to the changes to court procedures.

Small Business Effect: None.

Analysis

Bill Summary/Current law: The bill makes the following changes:

- requires a designee of the Maryland Department of Health, who conducts an assessment to determine the need for and benefit of drug treatment, as ordered by the court for a defendant with a substance use disorder, to be certified *or* licensed instead of certified *and* licensed;
- authorizes a person serving a term of confinement that includes a mandatory minimum sentence for an offense relating to drug distribution or volume dealing in less than 448 grams of cocaine base imposed on or before September 30, 2017, to file a motion to modify or reduce the sentence under specified circumstances. Under

Chapter 515, only a person serving a term of confinement that includes a mandatory minimum sentence imposed on or before September 30, 2017, for specified felony drug offenses may apply to the court to modify or reduce the mandatory minimum sentence;

- repeals the requirement that a petition for expungement of a misdemeanor conviction that has been transferred to another court be filed in the court of original jurisdiction from which the order of transfer was entered and retains the requirement for the petition to be filed in the court to which the proceeding was transferred. Chapter 515 duplicated the requirement that a petition for expungement of a *criminal charge* that has been transferred to the juvenile court be filed in the court of original jurisdiction from which the order of transfer was entered (the adult court); however, the provisions under which the language was added apply to specified misdemeanor *convictions*;
- repeals the authority to expunge a conviction for the offense of bigamy;
- corrects statutory references relating to provisions authorizing a petition for expungement of a police record, court record, or other record maintained by the State or a political subdivision of the State for offenses related to false statements to obtain housing assistance, as specified;
- expands the membership of the Justice Reinvestment Oversight Board;
- clarifies that a person *charged with* driving with a suspended license, as specified, must appear in court and may not prepay the fine and that a person *convicted of* driving with a suspended license, as specified, is subject to a fine of up to \$500; and
- corrects the terms of the initial appointed members of the Justice Reinvestment Oversight Board.

Background: Chapter 42 of 2015 established the Justice Reinvestment Coordinating Council (JRCC) within the Governor’s Office of Crime Control and Prevention. JRCC was required to use a data-driven approach to develop a statewide policy framework for sentencing and corrections policies to further reduce the State’s incarcerated population, reduce spending on corrections, and reinvest in strategies to increase public safety and reduce recidivism. The council and its subcommittees met numerous times in 2015 to analyze criminal justice data and review relevant research. Based on its findings, JRCC developed a comprehensive set of recommendations intended to focus prison resources on serious and violent offenders, strengthen community supervision efforts, improve and enhance release and reentry practices, support local corrections systems, and ensure oversight and accountability.

Chapter 515 of 2016, the Justice Reinvestment Act, generally implemented many of the recommendations of JRCC by altering provisions relating to sentencing, corrections, parole, and offender supervision. In addition, the Justice Reinvestment Act (1) altered provisions relating to criminal gangs; (2) increased maximum penalties for second-degree murder and first-degree child abuse resulting in death; (3) modified provisions regarding drug treatment; (4) expanded expungement provisions; and (5) specified the manner for reinvestment of savings from the changes in incarceration policies. By October 1, 2017, all provisions of Chapter 515 had taken effect.

Additional Information

Prior Introductions: HB 1418 of 2017, a similar bill, passed the House with amendments and received a hearing in the Senate Judicial Proceedings Committee, but no further action was taken.

Cross File: Although designated as a cross file, HB 1082 (Delegate Dumais - Judiciary and Health and Government Operations) – is not identical.

Information Source(s): Maryland Association of Counties; Maryland Municipal League; Governor’s Office of Crime Control and Prevention; Maryland State Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Office of the Public Defender; Maryland State’s Attorneys’ Association; Maryland Department of Health; Department of Public Safety and Correctional Services; Department of State Police; Maryland Department of Transportation; Department of Legislative Services

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nb/kdm

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