

Department of Legislative Services
Maryland General Assembly
2018 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1166
Judiciary

(Delegate Haynes)

Criminal Procedure – Sentencing – Primary Caretaker

This bill authorizes a defendant who is convicted of a “nonviolent crime” to make a motion for the court to consider the defendant’s status as a “primary caretaker” within 10 calendar days after conviction. If a defendant makes such a motion, the court must determine whether the defendant qualifies as a primary caretaker. If the court determines that the defendant is a primary caretaker, the court must consider placing the defendant on probation instead of incarceration with conditions emphasizing community rehabilitation and parent-child unity and support, including specified types of counseling, treatment, and services.

Fiscal Summary

State Effect: The bill is procedural in nature and is not expected to materially affect State finances.

Local Effect: The bill is procedural in nature and is not expected to materially affect local finances.

Small Business Effect: None.

Analysis

Bill Summary: A “primary caretaker” is a person who has assumed responsibility for a dependent child’s housing, health, financial support, education, family ties, or safety. A primary caretaker includes a parent who, in the best interest of a child, has arranged for the temporary care of the child in the home of a relative or other responsible adult, unless the person is otherwise disqualified from the designation of primary caretaker. The bill defines

a “nonviolent crime” as a crime other than a crime of violence under § 14-101 of the Criminal Law Article.

The bill specifies that the following types of treatment and services are among the conditions of probation a court may consider imposing on a primary caretaker defendant: (1) drug or alcohol treatment; (2) domestic violence education and prevention; (3) physical and sexual abuse counseling; (4) anger management; (5) vocational and educational services; (6) job training and placement; (7) affordable and safe housing assistance; (8) financial literacy; (9) parenting classes; (10) family and individual counseling; and (11) family case management services.

Current Law: On entering a judgment of conviction, a court may suspend the imposition or execution of sentence and place the defendant on probation on the conditions that the court considers proper.

A court may (1) impose a sentence for a specified time and specify that a lesser period of the sentence be served in confinement; (2) suspend the remainder of the sentence; and (3) order probation for a time longer than the sentence. However, in general, a defendant in the circuit court may not be placed on probation for longer than five years; a defendant in the District Court may be placed on probation for up to three years. Other provisions apply to defendants convicted of specified sexual crimes. The court may extend probation for the purposes of making restitution or alcohol or drug treatment.

Under the Maryland Rules, a court must advise a defendant placed on probation of the conditions and duration of probation and the possible consequences of a violation of any of the conditions. The court also must provide the defendant with a written order stating the conditions and duration of probation. During the period of probation, on motion of the defendant or of any person charged with supervising the defendant while on probation or on its own initiative, the court, after giving the defendant an opportunity to be heard, may modify, clarify, or terminate any condition of probation, change its duration, or impose additional conditions.

Section 14-101(a) defines a “crime of violence” as (1) abduction; (2) arson in the first degree; (3) kidnapping; (4) manslaughter, except involuntary manslaughter; (5) mayhem; (6) maiming; (7) murder; (8) rape; (9) robbery; (10) carjacking (including armed carjacking); (11) first- and second-degree sexual offenses; (12) use of a handgun in the commission of a felony or other crime of violence; (13) child abuse in the first degree; (14) sexual abuse of a minor younger than age 13 under specified circumstances; (15) home invasion; (16) an attempt to commit crimes (1) through (15); (17) continuing course of certain sexual conduct with a child; (18) assault in the first degree; and (19) assault with intent to murder, rape, rob, or commit a sexual offense in the first or second degree.

Additional Information

Prior Introductions: None.

Cross File: SB 617 (Senator Robinson) - Judicial Proceedings.

Information Source(s): Baltimore City; City of Bowie; 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 Housing and Community Development; Department of Labor, Licensing, and Regulation; Department of Public Safety and Correctional Services; Department of Legislative Services

Fiscal Note History: First Reader - February 12, 2018
md/kdm

Analysis by: Amy A. Devadas

Direct Inquiries to:
(410) 946-5510
(301) 970-5510