

Department of Legislative Services
Maryland General Assembly
2019 Session

FISCAL AND POLICY NOTE
Third Reader

Senate Bill 217

(Senator Edwards)

Judicial Proceedings

Judiciary

Garrett County - Pretrial Release, Work Release, and Home Detention Programs

This bill repeals the authorization for the Garrett County Board of County Commissioners and Sheriff to establish and administer a home detention program and provide for other alternative sentencing options. Instead, the bill (1) authorizes the Garrett County Sheriff to establish and administer programs for pretrial release and work release and (2) requires the sheriff to establish and administer a home detention program.

Fiscal Summary

State Effect: None.

Local Effect: Garrett County can implement the bill with existing resources.

Small Business Effect: None.

Analysis

Bill Summary:

Pretrial Release Program

The sheriff may (1) establish a pretrial release program that offers alternatives to pretrial detention and (2) adopt regulations to administer the program.

A court may order an individual to participate in the pretrial release program if the individual appears before the court after being charged and detained on bond and meets the

eligibility requirements for the program. An individual is eligible for the program if the individual:

- is recommended for placement in the program by the program staff;
- has no other charges pending in any jurisdiction; and
- is not in detention for escape or a crime of violence (as defined in § 14-101 of the Criminal Law Article).

The court may make the order at the imposition of bond, on review of bond, or at any other time during the individual's pretrial detention.

Work Release Program

The sheriff's office may (1) establish and direct a work release program and (2) adopt guidelines for the operation of the program.

The sentencing judge (or another judge if the judge is unavailable) may order that an individual participate in the work release program at the time of sentencing or at any time during an individual's confinement, subject to the guidelines adopted by the sheriff. The court may allow the inmate participating in a work release program to leave actual confinement to:

- work at gainful, private employment; or
- participate in an educational, rehabilitative, or training program in the county.

Unless the court directs otherwise, an inmate must be confined in the detention center when not participating in the work release program. The sheriff or the sheriff's designee must collect the earnings of an inmate in the program, less payroll deductions required by law. From those earnings, the sheriff must deduct and disburse (1) costs to the county for food, lodging, and clothing for the inmate; (2) the actual cost of necessary food, travel, and other expenses incidental to the inmate's participation in the program; (3) any court-ordered fine, cost, restitution, or payment for legal services; and (4) any child support. The sheriff must credit the remaining balance to the inmate's account and dispose of the balance as the inmate reasonably requests and as the sheriff approves. If an inmate is found to have violated a trust or a condition of employment, the inmate is subject to removal from the work release program and cancellation of any earned diminution of the inmate's term of confinement.

Home Detention

The sheriff must establish and administer a home detention program and adopt regulations for the program.

The sentencing judge may allow an individual to participate in the home detention program at the time of sentencing or at any time during an individual's confinement. An inmate is eligible for the program if the inmate:

- is recommended for the program by the sentencing judge; and
- has no other charges pending in any jurisdiction.

An inmate is not eligible for the home detention program if the inmate is serving a sentence for a crime of violence (as defined in § 14-101 of the Criminal Law Article) or has been found guilty of the crime of child abuse or escape.

While participating in the program, an inmate is responsible for the inmate's medical care and related expenses and costs of lodging, food, clothing, transportation, restitution, and taxes. The sheriff may (1) determine the maximum number of inmates that may participate in the program and (2) collect a reasonable fee from each participant or waive or reduce the fee.

An inmate who knowingly violates a term or a condition of the home detention program is guilty of a misdemeanor and on conviction is subject to existing maximum penalties of a fine of \$1,000 and/or imprisonment for one year and other disciplinary action provided by law.

Current Law: The Board of County Commissioners and the Sheriff of Garrett County may establish and administer a home detention program and provide for other alternative sentencing options.

The crime of escape from a local work release or home detention program is a misdemeanor, which subjects violators to maximum penalties of a fine of \$5,000 and/or imprisonment for three years. A violation of any other term or condition of leave, work release, or home detention is a misdemeanor, which subjects violators to maximum penalties of a fine of \$1,000 and/or imprisonment for one year.

Section 14-101(a) of the Criminal Law Article 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 (with specified

exceptions) 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; or (19) assault with intent to murder, rape, rob, or commit a sexual offense in the first or second degree.

Additional Information

Prior Introductions: SB 1124 of 2018 received a hearing in the Senate Judicial Proceedings Committee, but no further action was taken. Its cross file, HB 1757, was referred to the House Rules and Executive Nominations Committee, but no further action taken was taken.

Cross File: HB 407 (Delegate Beitzel) - Judiciary.

Information Source(s): Garrett County; Maryland State Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Office of the Public Defender; Maryland State's Attorneys' Association; Department of Public Safety and Correctional Services; Department of Legislative Services

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