

Department of Legislative Services
 Maryland General Assembly
 2019 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 229
 Judiciary

(The Speaker, *et al.*) (By Request - Administration)

State Commission on Criminal Sentencing Policy - Annual Report - Crimes of Violence

This Administration bill expands the reporting requirements of the Maryland State Commission on Criminal Sentencing Policy (MSCCSP) by requiring MSCCSP to provide in its annual report the following information for each conviction of a “crime of violence” under § 14-101(a) of the Criminal Law Article: the crime of which the defendant was convicted; the sentence imposed; the applicable sentencing guidelines range; the sentence recommended by the State; the court and judicial circuit with jurisdiction over the case; and the sentencing judge. MSCCSP must include appropriate entry locations on a sentencing guidelines worksheet for a court to report this information.

Fiscal Summary

State Effect: General fund expenditures increase by as much as \$170,900 in FY 2020. Out-years reflect ongoing costs. Revenues are not affected.

(in dollars)	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	170,900	10,800	11,100	11,500	11,900
Net Effect	(\$170,900)	(\$10,800)	(\$11,100)	(\$11,500)	(\$11,900)

Note: () = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: None.

Small Business Effect: The Administration has determined that this bill has minimal or no impact on small business (attached). The Department of Legislative Services (DLS) concurs with this assessment.

Analysis

Current Law: 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 firearm in the commission of a felony or other crime of violence, except possession with intent to distribute a controlled dangerous substance; (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.

MSCCSP is required to conduct an annual review of sentencing policy and practice and submit a report to the General Assembly by January 31 of each year. The report must (1) include any changes to the sentencing guidelines made during the preceding year; (2) review judicial compliance with the sentencing guidelines, including compliance by crime and by judicial circuit; (3) review reductions or increases in original sentences that have occurred because of reconsiderations of mandatory sentences for crimes of violence; and (4) categorize information on these reconsiderations of sentences by offense and by judicial circuit.

Background: The General Assembly created MSCCSP in 1999, after a study commission recommended the creation of a permanent commission in its final report. MSCCSP consists of 19 members, including members of the Judiciary, members who are active in Maryland’s criminal justice system, members of the General Assembly, and public representatives.

MSCCSP was created to oversee sentencing policy in Maryland and is primarily responsible for maintaining and monitoring the State’s voluntary sentencing guidelines, which are intended to promote fair and proportional sentencing while eliminating sentencing disparity.

MSCCSP is authorized to adopt sentencing guidelines to be considered by courts when determining the appropriate sentence for a criminal defendant, as well as the collection and automation of sentencing guidelines data. All sentencing guidelines data are provided on the sentencing guidelines worksheet, which is completed to determine the recommended sentencing guidelines outcome and to record sentencing data for offenses prosecuted in circuit court. After a sentencing judge or the judge’s designee completes the worksheet, the judge reviews the worksheet for completeness and accuracy and submits a copy of the worksheet (paper or electronic) to MSCCSP. The commission’s staff use data collected

from these worksheets to analyze sentencing trends, monitor circuit court sentencing compliance, and adopt changes to the guidelines consistent with legislative intent when necessary.

MSCCSP advises that based on a review of the Maryland Sentencing Guidelines Database, the commission received information for 2,571 counts and 1,731 individuals sentenced for a crime of violence under § 14-101 of the Criminal Law Article in the State’s circuit courts during fiscal 2018.

State Expenditures: General fund expenditures for the Judiciary and MSCCSP increase by as much as \$170,911 in fiscal 2020, as discussed below. Future year expenditures reflect ongoing costs for MSCCSP only.

Judiciary

General fund expenditures for the Judiciary may increase by \$132,302 in fiscal 2020 only to reprogram the Judicial Information Systems software to transmit the information required under the bill in the Judiciary’s monthly data feed to MSCCSP. According to the Judiciary, implementing these changes requires approximately 1,250 hours of reprogramming and testing. DLS advises, however, that it is unclear at this time whether this reprogramming is essential to implementing the bill. A significant portion of the information contained in the Judiciary’s monthly data feed is also contained on worksheets submitted by judges to MSCCSP.

MSCCSP

General fund expenditures for MSCCSP increase by \$38,609 in fiscal 2020, which accounts for the bill’s October 1, 2019 effective date. This estimate reflects the cost of additional work hours for MSCCSP’s existing graduate research assistant (salary and fringe benefits) and one-time computer reprogramming costs, discussed in more detail below.

Salary and Fringe Benefits (Additional Hours)	\$8,609
Computer Reprogramming	<u>30,000</u>
Total FY 2020 MSCCSP Expenditures	\$38,609

Future year expenditures reflect ongoing costs associated with additional work hours for the graduate research assistant (a full salary with annual increases and employee turnover).

This estimate does not include any health insurance costs that could be incurred for specified contractual employees under the State’s implementation of the federal Patient Protection and Affordable Care Act.

The bill requires MSCCSP to expand its sentencing guidelines worksheet. This requires the commission to reprogram its electronic worksheet submission system, known as the Maryland Automated Guidelines System (MAGS). The cost associated with reprogramming MAGS is \$30,000 in fiscal 2020 only. All of the State's 24 jurisdictions are expected to be on MAGS by the effective date of the bill.

The bill places additional responsibilities on MSCCSP staff, including data collection, data management, and data analysis for approximately 2,500 crime of violence convictions per year; communicating with the courts and other stakeholders to verify information; testing and implementing updates to MAGS; and assisting with training needs. To handle the additional workload, MSCCSP needs to increase the number of work hours for its existing graduate research assistant position.

MSCCSP's annual report contains an analysis of data from the preceding fiscal year. The bill takes effect October 1, 2019, which is three months into fiscal 2020. Thus, the first report to contain any of the sentencing data required to be reported under the bill is the report due on January 31, 2021. However, because MSCCSP needs to alter sentencing guidelines worksheets to capture the necessary data beginning on October 1, 2019, and because MSCCSP reviews and analyzes data on an ongoing basis, this analysis assumes that MSCCSP incurs costs beginning October 1, 2019.

Additional Information

Prior Introductions: None.

Cross File: SB 176 (The President, *et al.*) (By Request - Administration) - Judicial Proceedings.

Information Source(s): Governor's Office of Crime Control and Prevention; Maryland State Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Department of Legislative Services

Fiscal Note History: First Reader - January 30, 2019
md/kdm

Analysis by: Amy A. Devadas

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

ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: State Commission on Criminal Sentencing Policy - Annual Report - Crimes of Violence

BILL NUMBER: SB 176/HB 229

PREPARED BY: Governor's Legislative Office

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

 X WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND
SMALL BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND
SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS