

MARYLAND JUDICIAL CONFERENCE
GOVERNMENT RELATIONS AND PUBLIC AFFAIRS

Hon. Mary Ellen Barbera
Chief Judge

187 Harry S. Truman Parkway
Annapolis, MD 21401

MEMORANDUM

TO: House Judiciary Committee
FROM: Legislative Committee
Suzanne D. Pelz, Esq.
410-260-1523
RE: House Bill 1217
Justice Reinvestment Act – Conditions of Release – Technical
Revocation Caps
DATE: February 26, 2020
(3/6)
POSITION: Oppose as drafted

The Maryland Judiciary opposes House Bill 1217 as drafted. The offered legislation makes several modifications to the Justice Reinvestment Act, passed in 2016 under SB 1005.

This bill, starting on page eight, line 15, under Criminal Procedure §6-223, provides that the commissioner shall consider certain factors when determining whether to adhere to certain limits. This provision is unclear, and the Judiciary believes it should read the “court” shall consider the following factors rather than the “commissioner.” This provision of the bill needs to be reviewed and corrected or clarified.

In addition, the Judiciary believes the new standard created in this bill for the defendant or probationer is unnecessary. Currently Criminal Procedure §6-223 provides guidance for judges that the presumption of limits on the period of incarceration for a technical violation may be rebutted if the court finds that adhering to the limits would create a risk to public safety, a victim, or a witness. That section already requires a judge to consider the nature of the probation violation, the facts and circumstances of the crime for which the defendant was convicted; and the defendant’s history. Although the Judiciary agrees that this language should be amended to include a risk to the defendant as well, it does not believe that an additional separate set of standards needs to be created just for the defendant as this bill does in §6-223(4)(i).

cc. Hon. Luke Clippinger
Judicial Council
Legislative Committee
Kelley O’Connor