

Department of Legislative Services  
Maryland General Assembly

FISCAL NOTE

House Bill 1092 (Delegate Montague)

Judiciary

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**Public Defender - Bail Review Hearings - Representation of Indigent Defendants**

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This bill requires the Office of the Public Defender to provide legal representation to indigent defendants during bail review hearings.

The bill also requires the Office of the Public Defender to report to the General Assembly on or before December 1, 2000, and every two years thereafter, on the number of individuals who were provided counsel at bail review hearings, the number of individuals who were released from custody prior to trial, and the completion time for District Court cases before the effectiveness of the bill as compared with after the effectiveness of the bill.

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**Fiscal Summary**

**State Effect:** General fund expenditures could increase by \$1.6 million in FY 1999; out-years reflect annualization, salary increases, and inflation. These costs may be fully or partially offset by decreased incarceration costs for Baltimore City Detention Center. No effect on revenues.

(in millions)	FY 1999	FY 2000	FY 2001	FY 2002	FY 2003
GF Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditures	\$1.6	\$2.2	\$2.3	\$2.4	\$2.5
Net Effect	(\$1.6)	(\$2.2)	(\$2.3)	(\$2.4)	\$2.5)

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

**Local Effect:** Potential indeterminate decrease in incarceration costs for local governments. No effect on revenues.

**Small Business Effect:** Potential meaningful.

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**Fiscal Analysis**

**State Expenditures:** General fund expenditures could increase by an estimated \$1,635,484

in fiscal 1999, which reflects the bill's October 1, 1998 effective date. This estimate reflects the cost of hiring 27.25 attorneys and 29.5 Intake Specialists II throughout the State to perform the functions of the bill. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses. No new employees would be needed in Montgomery and Harford counties, where public defenders already represent defendants at bail review hearings. An Intake Specialist II supports attorneys by interviewing defendants, determining financial eligibility of defendants, and performing other factfinding functions. The information and assumptions used in calculating the estimate are stated below:

	<u>FY 1999</u>
Salaries and Fringe Benefits	\$1,500,947
Operating Expenses	35,607
One-Time Equipment Purchases	<u>98,930</u>
<b>Total</b>	<b>\$1,635,484</b>

Future year expenditures reflect: (1) full salaries with 3.5% annual increases and 3% employee turnover; and (2) 1% annual increases in ongoing operating expenses. Fringe benefit expenses could be lower if the Office of the Public Defender decides to contract out some of the legal work to attorneys who are not employees of the Office of the Public Defender.

These costs could be fully or partially offset by decreased general fund expenditures for pretrial incarceration. The Office of the Public Defender advises that involvement of defense counsel at the bail review stage of a case can facilitate alternatives to pretrial detention, including bail reduction, release on personal recognizance, and early resolution of the case. Data relating to how the involvement of public defenders at bail review hearings in Montgomery and Harford counties has affected expenditures has not been made available to the Department of Legislative Services.

Pretrial detainees in Baltimore City are housed in the Baltimore City Detention Center (BCDC), a State operated facility. The per diem cost for BCDC in fiscal 1999 is estimated at \$43 per inmate. In the other jurisdictions, defendants are held in local detention facilities pretrial, which costs are generally paid by the local jurisdictions.

The extent to which pretrial detention expense would be reduced as a result of this bill cannot be reliably estimated at this time, because it would depend largely upon the success with which the Office of the Public Defender could demonstrate to courts that individual defendants are low flight risks and are not a danger to the community.

For illustrative purposes, with regard to Baltimore City only, if the Office of the Public Defender is successful in reducing the number of pretrial detainees in BCDC by more than 6% as a result of this bill, the theoretical savings for the State resulting from the bill would more than offset the costs of the bill. This estimate is based on BCDC's per diem cost per inmate of \$43 and the fact that approximately 90.7% of detainees in BCDC are pretrial residents. However, because BCDC can be used for purposes other than pretrial detention, it is unknown to what extent this bill would actually reduce the facility's population.

Because pretrial detention costs are generally a local expense in jurisdictions other than Baltimore City, and the Office of the Public Defender is financed by the State, there would essentially be no direct expenditure - savings offset in the other jurisdictions.

**Local Effect:** Local government expenditures could decrease to the extent that the number of pretrial detainees decreases. Per diem operating costs of local detention facilities are expected to range from \$23 to \$83 per inmate in fiscal 1999. The total amount of any expenditure reductions that may result from this bill cannot be reliably estimated at this time.

**Small Business Effect:** Small law firms that perform criminal defense work could obtain more contract work from the Office of the Public Defender as a result of this bill.

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**Information Source(s):** Department of Public Safety and Correctional Services (Division of Pretrial Detention and Services), Judiciary (District Court of Maryland), Office of the Public Defender, Department of Legislative Services

**Fiscal Note History:** First Reader - February 23, 1998

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