

Department of Legislative Services
Maryland General Assembly
2000 Session

FISCAL NOTE
Revised

House Bill 81 (Delegate Dembrow. *et al.*)

Judiciary

Criminal Sentencing - Custodial Confinement as a Condition of Probation

This emergency bill expands, statewide, the authority of the courts to impose “custodial confinement” as a condition of a suspended sentence, probation before judgment, or probation following judgment.

Fiscal Summary

State Effect: The bill defines “custodial confinement” to mean home detention, certain correctional options programs, or inpatient drug or alcohol treatment. The definition specifically excludes imprisonment. Accordingly, this bill will not have any impact on State incarceration costs or reimbursements to local governments for incarceration costs. It is assumed that the provisions of this bill would be carried out within the operating capacities of the various existing custodial confinement programs.

Local Effect: This bill will not have any impact on local incarceration costs. It is assumed that the provisions of this bill would be carried out within the operating capacities of the various existing custodial confinement programs.

Small Business Effect: Minimal. This bill’s effect on the operations of private home detention operators is not expected to be significant.

Analysis

Current Law: This authority applicable to probation before judgment is currently available to a court in Allegany, Calvert, Charles, Garrett, and St. Mary’s counties. This authority applicable to probation following judgment is currently available to a court in Charles, St. Mary’s, Cecil, Harford, and Calvert counties.

Background: In August 1999, in the case of *Frederick A. Bailey v. State of Maryland*, the

Court of Appeals found that home detention (or house arrest) is a form of confinement and, in the absence of statutory authority, a trial court lacks power to order home detention as a condition of probation.

Additional Information

Prior Introductions: Chapter 460 of 1998 granted the authority of a court to impose a sentence of confinement as a condition of probation before judgment in Allegany County and Garrett County. HB 1305 of 1998 (failed) would have extended that authority in Anne Arundel County.

Cross File: SB 25 (Senator Baker, *et al.*) - Judicial Proceedings.

Information Source(s): Department of Public Safety and Correctional Services (Division of Correction), State Commission on Criminal Sentencing Policy, Department of Legislative Services

Fiscal Note History: First Reader - January 11, 2000
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