

Department of Legislative Services  
Maryland General Assembly  
2000 Session

**FISCAL NOTE**

House Bill 223 (Howard County Delegation)

Judiciary

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**Howard County - Confinement as a Condition of Probation  
Ho. Co. 4-00**

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This bill authorizes a court in Howard County to impose a sentence of confinement as a condition of probation before judgment.

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**Fiscal Summary**

**State Effect:** Minimal increase in general fund expenditures due to the bill's incarceration provision. Revenues would not be affected.

**Local Effect:** Minimal increase in expenditures due to the bill's incarceration provision. Local revenues would not be affected.

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

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**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.

**State Fiscal Effect:** It is assumed that any additional confinements resulting from this bill,

as a condition of probation before judgment, would likely involve home detention or house arrest as the form of confinement. Accordingly, this bill is not expected to have a significant impact on State incarceration costs or reimbursements to Howard County for incarceration costs.

However, to the extent that persons might be confined, as a condition of probation, in State prisons or the local detention facility in Howard County, the following costs would apply. Persons serving a sentence of one year or less in a jurisdiction other than Baltimore City are sentenced to a local detention facility. The State reimburses counties for part of their incarceration costs, on a per diem basis, after a person has served 90 days. State per diem reimbursements for fiscal 2001 are estimated at \$33 per inmate in Howard County (50% of full per diem costs). Currently, the Division of Correction (DOC) average total cost per inmate, including overhead, is estimated at \$1,700 per month. This bill alone, however, should not create the need for additional beds, personnel, or facilities. The average variable cost of housing a new DOC inmate (food, medical care, etc.), excluding overhead, is \$260 per month.

Accordingly, general fund expenditures could increase as a result of additional confinements in Howard County and increased payments to Howard County for reimbursement of inmate costs, depending on the number of times such a sentence of confinement is imposed. However, the number of additional confinements resulting from this bill is assumed to be minimal.

**Local Fiscal Effect:** Expenditures for Howard County could increase as a result of additional confinements depending upon the number of convictions and sentences imposed. Counties pay the full cost of incarceration for the first 90 days of the sentence, plus part of the per diem cost after 90 days. Per diem operating costs of the Howard County detention facility are expected to be \$65 per inmate in fiscal 2001.

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### **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:** None.

**Information Source(s):** Howard County, Department of Public Safety and Correctional Services (Division of Correction), Office of the Public Defender, Department of Legislative Services

**Fiscal Note History:** First Reader - February 8, 2000  
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Analysis by: Guy G. Cherry

Direct Inquiries to:  
John Rixey, Coordinating Analyst  
(410) 946-5510  
(301) 970-5510