

Department of Legislative Services
Maryland General Assembly
2001 Session

FISCAL NOTE

Senate Bill 671 (Senator Ferguson)
Judicial Proceedings

Christopher's Law IV - Revisory Power of Courts - Limitations

This bill permits a criminal defendant to file a motion to revise, modify, or reduce a sentence within 90 days after the sentence is imposed. The court retains revisory power over the sentence for one year after the filing of such a motion. A decision that changes the original sentence shall be in writing and state the reasons for the decision. A motion to revise, modify, or reduce the sentence may be filed at any time in a case involving an illegal sentence, fraud, mistake, or irregularity.

Fiscal Summary

State Effect: The bill is not expected to materially impact governmental operations or finances.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: Unless the sentence was imposed by more than one trial judge, every person convicted of a crime by a trial court of the State and sentenced to serve, with or without suspension, a total of more than two years imprisonment is entitled to have the sentence reviewed by a panel of three or more trial judges of the judicial circuit in which the sentencing court is located. A person has no right to have a sentence reviewed more than once. The judge who sentenced the convicted person shall not be one of the members of the panel, but may sit with the panel in an advisory capacity.

If a hearing is held, the panel may increase, decrease, or otherwise modify the sentence. Without holding a hearing, the panel may decide that the sentence under review should remain unchanged.

In addition, the Maryland Rules provide that the court has revisory power and control over a sentence upon a motion filed within 90 days after its imposition: (1) in District Court, if an appeal has not been perfected; and (2) in a circuit court, whether or not an appeal has been filed. Thereafter, the court has revisory power and control over the sentence in case of fraud, mistake, or irregularity. The court may not increase a sentence after the sentence has been imposed, except that it may correct an evident mistake in the announcement of a sentence if the correction is made on the record before the defendant leaves the courtroom following the sentencing proceeding. The court may correct an illegal sentence at any time.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): State Commission on Criminal Sentencing Policy, Office of the State's Attorneys' Coordinator, Judiciary (Administrative Office of the Courts), Department of Public Safety and Correctional Services (Division of Correction), Office of the Public Defender, Department of Legislative Services

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