

Department of Legislative Services
Maryland General Assembly
2001 Session

FISCAL NOTE

Senate Bill 632 (Senators Van Hollen and Roesser)
Judicial Proceedings

Sentencing - Revisory Power of Courts - Limitations

This bill authorizes a criminal defendant to file a motion to revise, modify, or reduce a sentence within 90 days after the sentence is imposed. The bill limits a court's revisory power to a period of one year after the filing of such a motion. The bill requires a decision by a court changing an original sentence to be in writing and to state the reasons for the decision. In addition, the bill allows such a motion to be filed at any time in a case involving an illegal sentence, fraud, a mistake, or an irregularity.

Fiscal Summary

State Effect: This bill is not expected to have a significant impact on the finances of the Judiciary, the Division of Correction, or the Office of the Public Defender.

Local Effect: This bill is not expected to have a significant impact on the finances of the circuit courts or State's Attorneys offices.

Small Business Effect: None.

Analysis

Current Law: Under Rule 4-345 of the Maryland Rules, a court has revisory power and control over a sentence upon a motion filed within 90 days after its imposition: (1) in the 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, or as otherwise provided in the Maryland Rules in cases concerning desertion and non-support of spouse, children, or

destitute parents. There is no time limit restricting when the court may exercise its revisory power.

Background: Another way in which defendants may obtain a revision of sentence is to file a motion under Maryland Rule 4-344 or § 8-102 of the Criminal Procedure Article. With certain exceptions, a defendant who is sentenced to serve a sentence that exceeds two years in a correctional facility is eligible to file a motion for review of sentence. The motion must be filed within 30 days of the sentence. A three-judge review panel that hears the motion must file a written decision within 30 days.

On March 9, 2001, the Standing Committee on Rules and Practice and Procedure considered an amendment to Maryland Rule 4-345 concerning the revisory power of the court. The proposed amendment would have required the State's Attorney to give notice to each victim who has filed a request: (1) that a motion to modify or reduce a sentence has been filed; and (2) either that the motion has been denied without a hearing or the date, time, and location of the hearing.

In addition, the proposed amendment would have required a court, before hearing a motion to modify or reduce a sentence, to hear from the State and from any victim who has requested an opportunity to be heard. If the court grants a motion to modify or reduce a sentence, the court must prepare or dictate into the record a statement setting forth the reasons upon which the ruling is based. The proposed amendment, however, would not have imposed a time limit restricting when the court may exercise its revisory power.

The proposed amendment was rejected by an 11 to 4 vote of the Rules Committee.

Additional Information

Prior Introductions: None.

Cross File: HB 62 (Delegate Brown) – Judiciary.

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

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ncs/jr

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