

Department of Legislative Services
Maryland General Assembly
2001 Session

FISCAL NOTE

House Bill 709 (Delegate Giannetti, *et al.*)

Judiciary

Judicial Proceedings

Criminal Procedure - Confinement as a Condition of Probation or Suspension of Sentence

This bill expands, statewide, the authority of the courts to impose confinement as a condition of a suspended sentence regardless of the age of the defendant, probation before judgment, or probation following judgment.

Fiscal Summary

State Effect: No effect 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: No effect 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: The authority of a court to impose a sentence of "confinement" as a condition of a suspended sentence currently exists in Calvert, Charles, and St. Mary's counties. This authority applicable to probation before judgment is currently available in Allegany, Calvert, Charles, Garrett, Howard, and St. Mary's counties. This authority

applicable to probation following judgment is currently available in Charles, St. Mary's, Cecil, Harford, and Calvert counties.

Under provisions applicable to suspended sentences, if a convicted person is under 18 years of age, a court may order confinement in any care or custody as may be deemed proper.

Background: In August 1999, in the case of *Bailey v. State*, the Court of Appeals of Maryland 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: Similar bills (SB 25, SB 494, and HB 81) were introduced during the 2000 session. SB 494 was recommitted to the Senate Judicial Proceedings Committee after a favorable report, but had no further action taken on it. SB 25 and HB 81 went to conference. The House approved the conference report for HB 81 but no action was taken on it in the Senate. The House and Senate appointed conferences for SB 25 but no further action was taken. HB 1305 of 1998, which would have extended that authority in Anne Arundel County, was withdrawn without a hearing.

Cross File: None.

Information Source(s): Department of Legislative Services

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