

Department of Legislative Services
Maryland General Assembly
2002 Session

FISCAL NOTE

House Bill 613 (Delegate Marriott, *et al.*)
Judiciary

**Criminal Procedure - Sentencing Court - Revisory Power and Control Over
Criminal Sentence**

This bill provides that a sentencing court has continuing revisory power and control over a criminal sentence in a case in which the sentence imposed is ten years or greater and changes that may have affected the original sentence have occurred in confinement policy, parole status, executive decisions, or statutory penalties. The sentencing court may not increase a criminal sentence after the sentence has been imposed, except that the court may correct an evident mistake in a sentence after the announcement of the sentence if the correction is made on the record before the defendant leaves the courtroom following the sentencing proceeding.

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: Every person convicted of a crime by a trial court of the State and sentenced to serve more than two years imprisonment by one judge is entitled to apply for and have a single review of that sentence. A panel of three or more trial judges of the judicial circuit in which the sentencing court is located conducts the review. 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: A similar bill was introduced in the 2001 session as HB 831. HB 831 received an unfavorable report from the Judiciary Committee.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts), Department of Public Safety and Correctional Services (Division of Correction, Division of Parole and Probation, Maryland Parole Commission), Department of Legislative Services

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