

Department of Legislative Services
Maryland General Assembly
2002 Session

FISCAL NOTE

House Bill 865
Judiciary

(Delegate Giannetti)

Criminal Procedure - Sentencing - House Arrest

This bill includes a house arrest, i.e., requiring an individual to remain in a private dwelling at all times, under the definition of “custodial confinement” as it applies to the authority of a court to impose conditions to a suspended sentence or probation before or after judgment.

Fiscal Summary

State Effect: The bill’s changes are not expected to have any significant impact on State finances or operations.

Local Effect: The bill’s changes are not expected to have any significant impact on local finances or operations.

Small Business Effect: None.

Analysis

Current Law: Chapter 356 of 2001 expanded statewide, the authority of the courts to impose “custodial confinement” as a condition of a suspended sentence, probation before judgment, or probation following judgment. Any time served by an individual in custodial confinement must be credited against any sentence of incarceration imposed by the court if the individual violates a term or condition of probation.

Chapter 356 defined custodial confinement as home detention, certain correctional options programs, or inpatient drug or alcohol treatment under existing provisions

governing court ordered evaluations and voluntary treatment. The definition specifically excluded imprisonment.

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: None.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts), Department of Legislative Services

Fiscal Note History: First Reader - March 8, 2002
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