

Department of Legislative Services
Maryland General Assembly
2002 Session

FISCAL NOTE

Senate Bill 796

(Senator Ferguson, *et al.*)

Judicial Proceedings

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

This bill generally 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 fraud, mistake, or irregularity or an illegal sentence. A motion to revise, modify, or reduce the sentence is prohibited for a first or second degree rape or sexual offense committed against a child under 16 years, unless the sentence involved fraud, mistake, irregularity, or an illegal sentence.

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. An application for review must be filed within 30 days of the sentencing. 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. The review panel must file a written decision within 30 days of the application's filing date.

In addition, the Maryland Rules provide that 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 of Maryland, 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. 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.

Background: In fiscal 2001, there were 121 applications filed for a sentence review. In that year (not all applications are heard in the year they are filed), the review panel decreased 5 sentences, increased 1 sentence, and made no changes to 97 sentences. Six petitions were withdrawn.

Additional Comments: Similar bills have been introduced in this session as SB 73 and SB 334.

Additional Information

Prior Introductions: A similar bill was introduced in the 2001 session as SB 671. The Senate Judicial Proceedings Committee held a hearing on it, but no further action was taken.

Cross File: None.

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

Fiscal Note History: First Reader - March 8, 2002
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