

Department of Legislative Services
Maryland General Assembly
2003 Session

FISCAL AND POLICY NOTE

House Bill 834 (Delegates Hutchins and Vallario)
Judiciary

Judicial Proceedings

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

This bill authorizes courts throughout the State to impose custodial confinement or imprisonment as a condition of probation before or after judgment.

The bill also authorizes a court to order confinement in any care or custody as may be deemed proper, regardless of the age of the defendant, in provisions relating to suspension of sentence.

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 and the prison system.

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 and the prison system.

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: If a defendant pleads or is found guilty of a crime, or enters a plea of *nolo contendere* (does not contest the charges), a court may stay entering judgment, defer further proceedings, and place the defendant on probation subject to reasonable conditions, if (1) the court finds that the best interests of the defendant and the public welfare would be served; and (2) the defendant consents in writing to this approach.

The authority of a court to impose a term of imprisonment as a condition of a 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 to a court in Charles, St. Mary's, Cecil, Harford, and Calvert counties.

In provisions relating to suspension of sentence, a court may order confinement in any care or custody as may be deemed proper if the defendant who is convicted is under 18 years of age.

Background: 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. The definition specifically excludes imprisonment.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Legislative Services

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