

Department of Legislative Services
Maryland General Assembly
2003 Session

FISCAL AND POLICY NOTE

Senate Bill 237 (Senators Stone and Hughes)
(Committee to Revise Article 27 – Crimes and Punishments)

Judicial Proceedings

Criminal Procedure – State’s Attorney Review of Applications for Statements of Charges

This bill requires screening by a State’s Attorney of all applications filed by citizens with the District Court for statements of criminal charges alleging the commission of an offense, except those alleging actual or threatened physical injury. The State’s Attorney’s office has 20 days from the receipt of an application to investigate the matter and make a recommendation. If that office determines that a statement of charges should be filed, it further recommends whether a summons or a warrant should be issued.

Fiscal Summary

State Effect: Potential significant reduction in expenditures for the State’s Attorneys’ offices and the District Court.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: A statement of charges may not be filed in connection with an offense for which prosecutorial review is required until the State’s Attorney has made a recommendation to the judicial officer who forwarded the application, or until the 20-day review period has lapsed, if no recommendation is received during that time.

A District Court judge or commissioner has discretion not to forward for prosecutorial screening applications that allege: (1) assisted suicide; (2) first or second degree rape; (3) a first, second, third, or fourth degree sexual offense; (4) an attempted rape in the first or second degree, or an attempted first or second degree sexual offense; (5) sexual conduct between a correctional or Department of Juvenile Justice employee and an inmate or confined child; (6) continuing course of conduct with a child; (7) sodomy; (8) an unnatural or perverted sexual practice; and (9) incest.

Current Law: The procedures outlined in this bill currently apply to applications that allege offenses by law enforcement officers, emergency services personnel, and educators.

Maryland Rule of Criminal Procedure 4-211 neither mandates prosecutorial screening nor prohibits it. Montgomery County currently has in place an informal arrangement between the District Court and the local State's Attorney office, whereby prosecutors screen both law enforcement and citizen-instituted complaints.

Background: The Committee to Revise Article 27 was appointed in 1991 by the Speaker and the President and charged with making both substantive and stylistic changes to the State's criminal law. The committee is composed of legislators, judges, lawyers representing both defendants and the State, and a victims' rights representative. In past sessions the committee has successfully sponsored legislation to revise the laws on accessory before and after the fact, arson, assault, benefit of clergy, burglary, destructive devices, disorderly conduct, escape, leased or rented goods, Medicaid fraud, offensive contact, prostitution, robbery, sabotage, trespass, and victims' rights.

This approach was also endorsed by the Maryland State Bar Association in the Final Report of its Special Committee to Study Methods of Initiating Criminal Process in Maryland. That report found that in fiscal 1997, no jurisdiction in Maryland had less than 22% of its cases disposed of by nolle prosequi and/or stet. Nine jurisdictions had over 50% of the cases initiated disposed of in this way, and one had over 60%.

State Expenditures: Substantial resources are required to pay for prosecutors, judges, witnesses, and victims to appear in court, often on multiple occasions, in the high number of cases ultimately determined to lack prosecutorial merit and/or substance. Montgomery County has found that this procedure has substantially reduced criminal dockets in the District Court. Any increased costs incurred by the District Court in tracking these applications would be offset by this reduced criminal caseload.

Additional Information

Prior Introductions: None.

Cross File: HB 295 (Delegate Doory) – Judiciary.

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

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mdf/jr

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