

Department of Legislative Services
Maryland General Assembly
2003 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 428

(Senators Giannetti and Green)

Judicial Proceedings

Judiciary

**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 and authorizes courts 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: Minimal. This bill is not expected to significantly affect governmental operations or finances.

Local Effect: Minimal – see above.

Small Business Effect: None.

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 to impose a term of imprisonment as a condition of probation before judgment is currently available to a court 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, if a defendant who is convicted is under 18 years of age, the court may order confinement in any care or custody as may be deemed proper.

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 excluded imprisonment.

Additional Information

Prior Introductions: None.

Cross File: None.

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

Fiscal Note History: First Reader - February 10, 2003
mld/cer Revised - Senate Third Reader - March 19, 2003
Revised - Enrolled Bill - April 24, 2003

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