

Department of Legislative Services
Maryland General Assembly
2003 Session

FISCAL AND POLICY NOTE

House Bill 739

(Delegate Anderson, *et al.*)

Judiciary

Criminal Procedure - Motions Requesting Commitment for Treatment

This bill provides that a motion by a defendant in a criminal case requesting permission to participate in an alcohol or drug treatment program administered for inmates by the State's Alcohol and Drug Abuse Administration (ADAA) may be filed, and considered by the sentencing court, at any time while the defendant is serving the sentence.

Fiscal Summary

State Effect: Minimal. The bill is not expected to have a significant impact on the Judiciary's workload.

Local Effect: Minimal – see above.

Small Business Effect: None.

Analysis

Current Law: If the court finds that a criminal defendant has an alcohol or drug dependency, the court may commit the defendant to the Department of Health and Mental Hygiene (DHMH) for inpatient, residential, or outpatient treatment as a condition of release, after conviction, or at any other time the defendant voluntarily agrees to treatment. ADAA is part of DHMH.

The Maryland Rules require that all requests for modification of a sentence be filed within 90 days of sentencing. In *Clark v. State*, 345 Md. 723, 705 A.2d 1164 (1998), the Maryland Court of Appeals held that a motion requesting permission to enroll in a drug

treatment program should be considered a request for modification of sentence, governed by this 90-day deadline. Since Clark filed his motion two years after sentencing, the sentencing court had dismissed the motion as untimely.

State Fiscal Effect: This bill will have no fiscal impact on ADAA. Each year ADAA budgets funds for the treatment of individuals with alcohol- and drug-related problems. The individuals receiving services under this bill would be the same individuals the agency would be serving at a later time.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): State's Attorneys' Association, Judiciary (Administrative Office of the Courts), Office of the Public Defender, Department of Health and Mental Hygiene, Department of Legislative Services

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