

Department of Legislative Services
Maryland General Assembly
2004 Session

FISCAL AND POLICY NOTE

Senate Bill 635

(Senators Giannetti and Stone)

(Committee to Revise Article 27 – Crimes and Punishments)

Judicial Proceedings

Criminal Procedure - State's Attorney Review of Applications for Statements of Charges

This bill grants discretion to a “judicial officer” (a District Court judge or commissioner) to forward for prosecutorial screening by a State’s Attorney any application filed by a person who is not a law enforcement officer for a statement of criminal charges alleging the commission of an offense. The State’s Attorney’s Office has 60 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 must recommend whether a summons or a warrant should be issued.

A statement of charges may not be filed in connection with an offense for which prosecutorial review is requested until the State’s Attorney has made a recommendation to the person who forwarded the application, or until the 60-day review period has lapsed, if no recommendation is received during that time.

Fiscal Summary

State Effect: Potential significant decrease in District Court expenditures, if a substantial number of applications are referred to the State’s Attorney for review.

Local Effect: Potential significant decrease in the State’s Attorney’s Office and circuit court expenditures, if a significant number of applications are referred to the State’s Attorney for review.

Small Business Effect: None.

Analysis

Current Law: The procedures outlined in this bill are mandatory for applications that allege offenses by law enforcement officers, emergency services personnel, and educators. However, there is no deadline for review.

A person who believes a crime has been committed against the person or a minor in the person's custody reports the crime to the local police department. Depending on the facts alleged, the police may conduct an investigation. The investigation determines whether or not the police file charges with the District Court.

If the police do not file charges, the person may file an Application for Statement of Charges with a District Court commissioner. The commissioner reviews the application to determine if probable cause exists to charge the defendant with a crime.

If the commissioner determines there is probable cause, a charging document is issued. This can be either a summons for the defendant to appear in court or a warrant for the defendant's arrest.

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, which recommended this bill, 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%. Allowing a State's Attorney to review statements of charges could potentially reduce the number of these dispositions.

State Expenditures: Because under this bill it is discretionary for a judicial officer to seek prosecutorial screening of applications for criminal charges, it cannot be predicted with certainty what fiscal impact it will have on the criminal justice system. However, 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.

Local Expenditures: Again, depending on the amount of applications screened by the State's Attorney, circuit court and State's Attorney Office costs could decrease substantially. Any increased costs to the State's Attorney's Office in screening these applications would be offset by the reduced criminal caseload.

Additional Information

Prior Introductions: Two similar but broader bills were introduced in 2003. These bills would have required a State's Attorney to screen all applications for statements of criminal charges filed by citizens, except those alleging actual or threatened physical injury. SB 237 received an unfavorable report from the Senate Judicial Proceedings Committee. HB 295 received an unfavorable report from the House Judiciary Committee.

Cross File: HB 576 (Delegate Brown) (Committee to Revise Article 27 – Crimes and Punishments) – Judiciary.

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

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