

Department of Legislative Services
Maryland General Assembly
2004 Session

FISCAL AND POLICY NOTE

House Bill 1367
Judiciary

(Delegates Owings and O'Donnell)

Pretrial Release Agencies - Registry of Defendants Recommended for Release

This bill requires a pretrial release agency in the State to maintain a registry containing the following information on defendants recommended for pretrial release by the agency: (1) the name of the defendant; (2) the charge for which the defendant is awaiting trial; (3) the nature of any current bench warrants applicable to the charges; (4) the defendant's scheduled court date; and (5) whether the agency's recommendation was for a secured or nonsecured release. The bill requires the registry to be updated weekly, readily available to the public, and located in the court clerk's office. The bill requires the agencies to make a specified annual report by September 30 of each year. Each agency is required to prepare the registry and annual report out of its existing budget. No additional government funds may be accepted or received by the agency for the production of the registry and the annual report.

Fiscal Summary

State Effect: None. The bill requires compliance out of the existing budget of the Pretrial Release Services Program, meaning that existing personnel may have to be reassigned from other duties. Revenues would not be affected.

Local Effect: None. The bill requires compliance for local government pretrial release agencies out of the existing budgeted resources. Revenues would not be affected.

Small Business Effect: None.

Analysis

Current Law: Under Maryland Rule 4-216, a person who is arrested (without a warrant) and charged with a crime is taken before a judicial officer (a judge or commissioner) of the District Court. The official determines whether there is probable cause that the defendant committed the offense and, if so, orders either that the defendant be detained prior to trial or sets the terms and conditions of any pretrial release. If the judicial officer finds no probable cause, the defendant must be released on personal recognizance with no other conditions of release.

Under that rule, in determining whether a defendant should be released and the conditions of release, a judicial officer must take into account specified available information, including any recommendation of an agency that conducts pretrial release investigations.

Maryland Rule 4-212(f) requires a defendant to be taken before the judicial officer “without unnecessary delay and in no event later than 24 hours after the arrest.” By law, a judicial officer is prohibited, under specified circumstances, from authorizing the pretrial release of a defendant charged with certain offenses, including crimes of violence.

Background: There is a Pretrial Release Services Program in the Division of Pretrial Detention and Services (DPDS) within the Department of Public Safety and Correctional Services (DPSCS). The division has jurisdiction over three agencies that provide services and administer programs associated with processing, detaining, and managing Baltimore region arrestees: (1) the Baltimore City Detention Center; (2) the Baltimore Central Booking and Intake Center; and (3) the Pretrial Release Services Program.

The division processes and manages the care, custody, and control of Baltimore City arrestees and inmates, and provides bail recommendations to the courts in Baltimore City. It also supervises defendants who have been released to the community to await trial.

The division was created in 1991. It handles about 31,000 pretrial release cases, annually, in Baltimore City.

State Fiscal Impact: All the records of the Pretrial Release Services Program are maintained on paper rather than electronically. DPDS does not currently have an automated tracking system for those defendants under supervision in Baltimore City.

DPDS advises that, as the number of arrests in Baltimore City continues to increase, a parallel increase in cases for pretrial supervision will also continue. While an automated system may address these concerns and the requirements of this bill, such a system would cost over \$1 million and up to two years to implement. Until such a system was in place,

the registry required under this bill would be handled manually. Some of the data requests for the reporting requirements under the bill are not currently tracked and would also have to be collected manually from paper records.

DPDS estimates that the bill would require full-time work from two administrative officers and one clerk typist. However, since the bill requires a pretrial release agency to prepare the registry and annual report out of its existing budget, personnel would have to be reassigned from current staff responsibilities. DPDS believes that it would have to reassign two investigators and one clerk typist to meet their responsibilities under the bill.

The hiring of additional full-time staff to meet these requirements, including fringe benefits and minimal operating expenses, would total over \$130,000 annually. The division advises that these positions cannot be afforded within its existing budget.

Local Fiscal Effect: For jurisdictions with a pretrial release agency, this bill would likely present similar operational difficulties to those discussed above for DPDS.

Additional Comments: DPDS does not believe that a registry could be made operational by the bill's effective date of October 1, 2004. If done manually DPDS reports that the registry could be operational by January 1, 2005.

Additional Information

Prior Introductions: HB 37 of 1997 had similar provisions applicable only on Baltimore City and Prince George's County. That bill received an unfavorable report from the House Judiciary Committee.

Cross File: None.

Information Source(s): Washington County, Montgomery County, Prince George's County, Kent County, Worcester County, Judiciary (Administrative Office of the Courts), Department of Public Safety and Correctional Services, Department of Legislative Services

Fiscal Note History: First Reader - March 19, 2004
mh/jr

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