

Department of Legislative Services
 Maryland General Assembly
 2006 Session

FISCAL AND POLICY NOTE

House Bill 237 (Chairman, Judiciary Committee)
 (By Request – Maryland Judicial Conference)

Judiciary

Right of Appeal - Violation of Probation - On the Record

This bill provides that an appeal to a circuit court of a District Court finding of violation of probation shall be heard on the record.

Fiscal Summary

State Effect: Increased State expenditures of \$55,000 per year for the Office of the Public Defender (OPD) to purchase transcripts of District Court violation of probation hearings for appeals on the record. Potential operational efficiencies for OPD due to decreased court time required for appeals on the record.

(in dollars)	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	55,000	55,000	55,000	55,000	55,000
Net Effect	(\$55,000)	(\$55,000)	(\$55,000)	(\$55,000)	(\$55,000)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: Potential decrease in circuit court expenditures due to decreased court time required by appeals on the record. Potential operational efficiencies for State’s Attorneys due to decreased court time required by appeals on the record.

Small Business Effect: None.

Analysis

Current Law: Appeals to circuits courts from a District Court finding that a defendant violated probation are tried *de novo*. In *de novo* appeals, the court hearing the appeal treats the appeal as if a previous trial never took place and conducts an entirely new trial. This means that in appeals from District Court findings of violation of probation, the circuit court does not hear the rationale behind the District Court's decision. In appeals on the record, parties are bound to the evidence and proceedings that took place in the lower court.

Violation of probation hearings are civil proceedings based on an underlying criminal matter.

Background: This bill comes at the request of the Maryland Judicial Conference.

State Fiscal Effect: OPD handles approximately 1,000 violation of probation appeals per year. OPD advises that making violation of probation appeals on the record requires the purchase of a transcript of the District Court proceeding. The cost of a transcript is \$10 per case for the audiotape and \$3 per page for transcription of the audiotape. OPD advises that a short hearing can produce a transcript of 10 pages, whereas longer hearings can produce 20 page transcripts. Legislative Services assumes that the average transcript for a violation of probation hearing will be 15 pages. Further assuming that the OPD rate for violation of probation appeals will remain constant, this bill would result in increased State expenditures of \$55,000 per year.

OPD should experience operational efficiencies since appeals on the record generally consume less court time than *de novo* appeals.

Additional Information

Prior Introductions: None.

Cross File: SB 143 (Chairman, Judicial Proceedings Committee) (By Request – Maryland Judicial Conference) – Judicial Proceedings.

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

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ncs/jr

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