

Department of Legislative Services
Maryland General Assembly
2007 Session

FISCAL AND POLICY NOTE

Senate Bill 136 (Chairman, Judicial Proceedings Committee) (By Request – Maryland Judicial Conference)

Judicial Proceedings

Courts - Violation of Condition of Probation or Suspension of Sentence - Notice or Warrant

This bill repeals a requirement that the District Court issue a warrant or give notice of a hearing on a violation of a condition of probation or suspension of sentence only during the period of probation. The bill requires the State to proceed with reasonable promptness and diligence to prosecute this violation. The bill codifies these standards with respect to the circuit courts, which had previously been in place through case law.

Fiscal Summary

State Effect: The bill's changes would not significantly affect the operations or finances of the District Court or circuit courts. Any potential additional warrants or notices could be handled with existing budgeted resources.

Local Effect: None. Any potential additional service of warrants would be minimal and could be handled with the existing budgeted resources of local law enforcement units.

Small Business Effect: None.

Analysis

Current Law: The District Court and the circuit courts have the power to end a period of probation at any time. *During the period of probation*, on written charges under oath or on violation of a condition of probation, the District Court may issue a warrant or notice requiring the probationer or defendant to be brought or appear before the judge

issuing the warrant or notice: (1) to answer the charge of violation of conditions of probation or of suspension of sentence; and (2) to be present for the setting of a hearing date for that charge.

With respect to the circuit courts, revocation proceedings may begin at any time for a violation of probation or suspended sentence, as long as “the State proceeds with reasonable promptness and diligence.” *State v. Miller*, 289 Md. 443, 424 A.2d 1109 (1981). This standard would be codified by this bill.

Background: The Maryland Judicial Conference has recommended this change in statute and believes the bill would eliminate confusion by allowing the District Court to issue a warrant or give notice of a violation of probation or suspended sentence within a reasonable timeframe rather than during the period of probation. According to the District Court, this bill would make District Court rules consistent with the rules for the circuit courts, and codify these rules with respect to the circuit courts.

Additional Information

Prior Introductions: HB 238 of 2006, a similar bill, received an unfavorable report in the House Judiciary Committee. This bill was cross filed as SB 141, and received an unfavorable report in the Senate Judicial Proceedings Committee.

Cross File: HB 300 (Chair, Judiciary Committee) (By Request – Maryland Judicial Conference).

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

Fiscal Note History: First Reader - February 5, 2007
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