

Department of Legislative Services
Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE

Senate Bill 651
Judicial Proceedings

(Senator DeGrange, *et al.*)

Costs - Circuit Courts and District Court - Failure to Appear or Violation of Probation

This bill requires the District Court and circuit courts to impose a fee of \$40 on a finding that a defendant has failed to appear for court as required by law. The District Court and circuit courts are also required to impose a \$40 fee on a defendant who is found to have violated a condition of probation after a warrant has been served and issued for the violation. All fees collected as a result of the bill are to be paid by the clerks of each court to the law enforcement agency primarily responsible for the service of warrants within the jurisdiction of that court.

Fiscal Summary

State Effect: Any increase in the workload of the Judiciary could be handled with existing resources.

Local Effect: Significant increase in revenues for local law enforcement agencies as a result of the bill's fee provisions. Any increase in the workload of the circuit courts could be handled with existing resources.

Small Business Effect: None.

Analysis

Current Law: There is no mandatory fee imposed on a defendant who fails to appear for court as required. A bench warrant may be issued for a person who fails to appear in

court in response to a citation. A person who fails to appear in court in response to a citation is guilty of a misdemeanor and on conviction is subject to a maximum fine of \$500 and/or imprisonment for up to 90 days. If a person has been charged with a crime and admitted to bail or released on their own recognizance and the person forfeits the bail or recognizance and willfully fails to surrender, a bench warrant is issued for the person's arrest. A person who has been admitted to bail or released on recognizance in a criminal case who willfully fails to surrender within 30 days after the date of the forfeiture is guilty of a misdemeanor and subject to maximum fines of \$5,000 and/or imprisonment for up to five years, depending on the crime or charge for which the bail or recognizance was given.

If a person fails to comply with a notice to appear for a violation of certain vehicle laws, the District Court or a circuit court may issue a warrant for the person's arrest, or after five days, notify the Motor Vehicle Administration of the person's noncompliance. If MVA receives a notice of noncompliance from the District Court or a circuit court, MVA must notify the person that his/her driving privileges will be suspended unless, by the end of the fifteenth day after the date on which the notice is mailed, the person pays the fine, or posts bond or a penalty deposit and requests a new trial or hearing date. If the person fails to pay the fine or to post the bond or a penalty deposit, MVA is authorized to suspend the driving privileges of that person.

In addition to other costs that are required by law, the District Court has to impose a cost of \$35 and the circuit courts a cost of \$45 on a defendant convicted of a crime.

On a finding that a defendant has violated the terms of probation, the court may revoke the probation and impose a sentence or continue the offender on probation subject to any additional conditions it chooses to impose. There is no mandatory fee required of a defendant who is found to have violated the terms of the probation.

Local Fiscal Effect: Local law enforcement agencies would see increased revenues as a result of the bill's fee provision. The exact revenues cannot be reliably predicted, as they would depend on the number of defendants within each jurisdiction who fail to appear and the number of defendants who are convicted of violating their probation after a warrant has been issued based on the violation. The Department of Public Safety and Correctional Services advises that information regarding the total number of individuals in each jurisdiction who are convicted of violating their probation after a warrant has been issued for the violation is not available.

Statistics obtained from the Judiciary indicate that in fiscal 2007, 18,206 individuals failed to appear in District Court for their criminal cases and 4,999 individuals failed to appear in District Court in response to a traffic citation for specified violations of the

State's laws against drunk driving. Based on this information, and assuming a \$40 fee is imposed and collected in each instance, local revenues could increase by \$928,200 annually.

Comparable circuit court records on the number of individuals who fail to appear for court are not maintained, limiting the ability to reliably predict the revenues that could be anticipated.

Baltimore City advises that anecdotal information indicates these revenues would be minimal based on the number of defendants that generally fail to appear. Prince George's County advises that in fiscal 2007, 773 individuals in its county failed to appear for court after receiving a citation for drunk driving. Assuming that these cases met the criteria for the assessment of fees, the Prince George's County Sheriff would receive \$30,920 in additional revenue.

Additional Information

Prior Introductions: None.

Cross File: HB 643 (Delegate Barnes) – Judiciary.

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

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