

Department of Legislative Services
Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE

Senate Bill 256 (Senator Brochin)
Judicial Proceedings

Criminal Procedure - Dismissal of Criminal Proceeding - Failure to Provide Interpreter

This bill prohibits a court from dismissing a criminal proceeding based on a violation of a defendant's right to a speedy trial for failure to provide a qualified interpreter unless specified procedures are followed.

Fiscal Summary

State Effect: None. Any increase in the workload of the Judiciary can be met with existing resources.

Local Effect: None. Any increase in the workload of the circuit courts can be met with existing resources.

Small Business Effect: None.

Analysis

Bill Summary: A court may not dismiss a criminal proceeding for failure to provide a qualified interpreter based on a violation of the defendant's right to a speedy trial unless the court (1) holds a hearing; and (2) makes detailed written findings that the court has no reasonable alternative but to dismiss the case. The written findings must address • the assessment of the defendant's need for a qualified interpreter; • the reasons for the delay, including a discussion of any motions made by the defense and the State; • the length of the delay, including the reasons for and length of any postponements; • the defendant's assertion of a right to a speedy trial; and • the prejudice to the defendant from the delay in proceedings.

Current Law: The court is required to appoint a qualified interpreter to assist a defendant throughout any criminal proceeding when the defendant is deaf or cannot readily understand or communicate the English language and cannot understand a charge made against the defendant or help present the defense.

A defendant has an absolute constitutional right to a speedy trial both under Article 21 of the Maryland Declaration of Rights and the Sixth Amendment to the federal Constitution, applicable to the states through the Fourteenth Amendment. See *Jolley v. State*, 282 Md. 353, 384 A.2d 91 (1978).

Background: Attention has been focused on the increased need for court interpreters following a Maryland circuit court judge's dismissal of a case after an almost three-year delay, mostly due to the inability of the court to provide a competent interpreter. The Administrative Office of the Courts advises that the case is the only one it is aware of in which the lack of an interpreter was a factor in a dismissal for a violation of the defendant's constitutional right to a speedy trial. Interpreters are generally hired as freelancers on an as-needed basis in both the District Court and circuit courts.

The costs associated with interpreters have risen considerably in the past several years. The fiscal 2008 appropriation (\$2.8 million) for interpreters was a 117% increase above fiscal 2002 actual expenditures (\$1.3 million). The Judiciary's fiscal 2009 budget allots \$3.8 million for court interpreters. According to the Judiciary, approximately 17% of the overall cost for court interpreter services is attributed to sign language interpreters. Although the majority of interpreter requests are for Spanish speakers, the Judiciary reports a particular increase in interpreter requests for languages spoken by fewer than 100,000 people. The U.S. Census Bureau reports that 5.7% of Maryland's population is "limited English proficient," defined as an individual over age five who cannot speak English very well.

Additional Information

Prior Introductions: None.

Cross File: None.

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

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mcp/jr

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