

Department of Legislative Services
Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE

House Bill 89 (Chair, Judiciary Committee)
(By Request – Maryland Judicial Conference)

Judiciary

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

This bill authorizes a circuit court to end a period of probation at any time, issue a warrant or give notice in connection with a violation of probation, and remand or release a probationer or defendant pending a hearing of a violation of probation. On a finding of violation, a court may revoke probation or a suspension of sentence and impose a sentence that might have originally been imposed. The bill authorizes the District Court and the circuit courts to issue a warrant or give notice of a hearing on violation of probation within one year after the date on which the probation of the defendant ends for a violation of a condition of probation committed during the period of probation. The bill requires specified hearing dates to be timely.

The bill codifies standards for 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 has 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, or similar, changes in statute since 2006 and believes the bill would eliminate confusion by allowing the circuit courts and the District Court to issue a warrant or give notice of a violation of probation or suspended sentence within one year from the date on which the probation ends, as well as during the period of probation. According to the Court of Appeals, the bill’s provisions are “consistent with case law in the area.”

Additional Information

Prior Introductions: Similar bills were introduced in 2006 and 2007. In 2007, SB 136 and HB 300 each received unfavorable reports from the Judicial Proceedings Committee and the Judiciary Committee, respectively. In 2006, SB 141 and HB 238 each received unfavorable reports from the same committees.

Cross File: SB 59 (Chair, Judicial Proceedings Committee)(By Request – Maryland Judicial Conference) – Judicial Proceedings.

Information Source(s): Judiciary, Department of Legislative Services

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ncs/jr

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