

Department of Legislative Services  
Maryland General Assembly  
2009 Session

FISCAL AND POLICY NOTE  
Revised

House Bill 134 (Chair, Judiciary Committee)(By Request - Maryland Judicial  
Conference)

Judiciary

Judicial Proceedings

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

This bill authorizes the District Court to institute proceedings for violation of probation during the period of probation or within 30 days after the violation, whichever is later. The bill also requires that a violation of probation hearing in District Court be timely and extends the applicability of other provisions relating to termination and violation of probation in District Court to circuit court.

Fiscal Summary

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

**Local Effect:** Any potential additional service of warrants are minimal and can be handled with the existing budgeted resources of local law enforcement units.

**Small Business Effect:** None.

Analysis

**Current Law:** In general, misdemeanor cases are heard in the District Court and felony cases are heard in circuit courts.

The District Court is authorized 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. (*See* Criminal Procedure Article § 6-223.)

If the District Court finds that a probationer or defendant violated a condition of probation, the District Court may revoke the probation or suspended sentence and impose any sentence that might have originally been imposed on the probationer or defendant. (*See* Criminal Procedure Article § 6-223.)

In 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.)

**Background:** The Maryland Judicial Conference has recommended statutory changes identical or similar to the ones in this bill since 2006. According to the District Court, in calendar 2008, there were approximately 352 cases where the defendant allegedly violated probation but could not be brought in for a hearing because there was insufficient time within the probation period for probation agents to submit required documentation to the District Court after learning of alleged violations.

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### **Additional Information**

**Prior Introductions:** This bill is similar to SB 59 of 2008 which passed the Senate, as amended, and was referred to the House Judiciary Committee, where no further action was taken. The House Judiciary Committee gave an unfavorable report to HB 89 of 2008, which was identical to SB 59, as introduced. 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 Judiciary Committee, respectively. In 2006, SB 141 and HB 238 each received unfavorable reports from the same committees.

**Cross File:** SB 145 (Chair, Judicial Proceedings Committee)(By Request - Maryland Judicial Conference) - Judicial Proceedings.

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

**Fiscal Note History:** First Reader - January 30, 2009  
mlm/kdm Revised - House Third Reader - March 23, 2009

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