

Department of Legislative Services
Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE**Revised**

Senate Bill 145 (Chair, Judicial Proceedings Committee)(By Request - Maryland
Judicial Conference)

Judicial Proceedings

Judiciary

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.

Additional Information

Prior Introductions: None.

Cross File: HB 134 (Chair, Judiciary Committee)(By Request - Maryland Judicial Conference) - Judiciary.

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

Fiscal Note History: First Reader - January 30, 2009
ncs/kdm Revised - Enrolled Bill - May 15, 2009

Analysis by: Amy A. Devadas

Direct Inquiries to:
(410) 946-5510
(301) 970-5510