

Department of Legislative Services
Maryland General Assembly
2010 Session

FISCAL AND POLICY NOTE

Senate Bill 109

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

Judicial Proceedings

Judiciary

Criminal Procedure - Expiration Date of Sentences - Repeal

This bill repeals the requirement that a court sentence a defendant for a period of imprisonment that will expire between April 1 and August 31 if the court considers it expedient. The bill also repeals the court's authorization to reduce a defendant's sentence to no less than 18 months imprisonment if the punishment required for the crime is at least two years imprisonment.

Fiscal Summary

State Effect: None. The bill repeals obsolete statutory provisions and is not expected to affect State finances.

Local Effect: None. The bill repeals obsolete statutory provisions and is not expected to affect local finances.

Small Business Effect: None.

Analysis

Current Law: Sentencing is the judgment imposing punishment that is formally pronounced by the court on a defendant after the defendant's conviction in a criminal proceeding. Statutory provisions often specify a maximum sentence but not a minimum sentence. For many offenses in which a minimum sentence is specified, however, the court may have some discretion in imposing a penalty of less than the statutory minimum sentence. Under some circumstances, a mandatory minimum sentence must be applied.

State sentencing guidelines set forth: (1) sentence ranges for crimes of a given degree of seriousness; (2) a range of increased severity for defendants previously convicted of or adjudicated delinquent for a crime; and (3) a list of aggravating and mitigating circumstances. The guidelines are not mandatory and judges may, at their discretion, impose a sentence outside the guidelines. Judges who wish to sentence outside the guidelines, however, are required to submit an explanation to document the reason or reasons for departure. Certain sentencing matters handled by judges in the circuit courts are excluded from the guidelines, including circuit court trials resulting from requests for jury trials from the District Court, appeals from the District Court, crimes that carry no possible penalty of incarceration, first degree murder convictions involving the death penalty, and violations of public local laws and municipal ordinances.

Background: Chapter 138 of 1809 established penalties for several crimes, clarified certain procedures for criminal trials and cases, and established conditions of imprisonment. Chapter 93 of 1825 amended the 1809 legislation by adding language prohibiting a person from being sentenced to confinement in the penitentiary for less than two years. Chapter 157 of 1836 required county courts and the city court of Baltimore City to structure sentences of individuals being sent to the penitentiary to expire between April 1 and August 31. Chapter 38 of 1839 sought to clarify conflicts between sentences prescribed in the original 1809 legislation and subsequent amendments by authorizing judges sentencing individuals pursuant to the April 1/August 31 requirement to impose sentences of imprisonment between 18 months and two years. The sections of statute affected by this bill were not amended after 1839.

The statute repealed by this bill was formerly contained in Article 27. Article 27 was among the former sections of statute revised and codified as the Criminal Procedure Article in Chapter 10 of 2001. The Criminal Procedure Article Review Committee suggested in 2001 that the General Assembly consider repealing this sentencing provision as obsolete.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Commission on Criminal Sentencing Policy, Judiciary (Administrative Office of the Courts), Office of the Public Defender, Department of Public Safety and Correctional Services, State's Attorneys' Association, Department of Legislative Services

Fiscal Note History: First Reader - January 26, 2010
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