

Department of Legislative Services
 Maryland General Assembly
 2011 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 801

(Senators Shank and Gladden)

Judicial Proceedings

Judiciary

Criminal Law - Swift and Certain Sanctions Pilot Program

This bill requires the Department of Public Safety and Correctional Services (DPSCS) to develop, by October 1, 2012, a pilot program in two counties that creates a system of graduated administrative sanctions for violations of conditions of parole by releaseses from the Division of Correction (DOC). Beginning in 2013, by October 1 of each year, DPSCS must report to the General Assembly on the status of the pilot program, the percentage of departmental programs that use evidence-based practices, and the number of individuals incarcerated for technical violations and new offenses while on parole.

The bill takes effect October 1, 2011, and terminates September 30, 2015.

Fiscal Summary

State Effect: General fund expenditures increase by \$75,000 in FY 2012 only. Revenues are not affected.

(in dollars)	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	75,000	0	0	0	0
Net Effect	(\$75,000)	\$0	\$0	\$0	\$0

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: None. However, it is unknown if the graduated sanctions pilot program developed by DPSCS might include additional incarcerations for violations of community supervision. If so, depending on the operational details of the program, it is possible that local detention facilities in Baltimore and Howard counties may be affected from October 1, 2012, until September 30, 2015.

Small Business Effect: None.

Analysis

Current Law: Chapter 739 of 2009 allows the Director of Parole and Probation to authorize parole and probation employees of the division to execute warrants for the arrest of probationers for an alleged violation of probation.

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).

State Fiscal Effect: DPSCS is in the process of developing a new Offender Case Management System (OCMS), which will not come online for use by the Division of Parole and Probation (DPP) until 2012. For this bill, DPSCS will have to build a software program onto OCMS because it will have to include the capability to track the graduated administrative sanctions imposed and the outcome in those cases. The contractual services cost for OCMS software modifications to accommodate the bill’s tracking and reporting requirements are estimated at \$75,000 in fiscal 2012 only.

The bill’s requirements to develop and operate the pilot program until September 30, 2015, can be handled with the existing budgeted resources of DPSCS, including personnel. According to DPP, Baltimore and Howard counties would likely be the most appropriate jurisdictions to be selected for the pilot program.

Additional Comments: In 2010, the Parole Commission implemented the Technical Violation Response Matrix. This matrix is a structure decision making tool to add predictability, consistency, and accountability to the decisions of the commission in revocation cases that involve only technical violations of parole and mandatory supervision. The matrix uses the most current risk level as determined by DPP or from the last parole hearing and then, based upon the severity of the violation or most severe violation, determines an appropriate sanction. Possible sanctions range from verbal reprimand, added conditions, outpatient treatment, GPS monitoring, home detention, incarceration to complete a DOC program, short-term incarceration for a period from 30-90 days, and revocation of parole or mandatory supervision.

The matrix has only been in use for a short time, but a random sample of cases in which the matrix and short-term incarceration were imposed as an alternative to revocation revealed a reduction of 6,073 days in a correctional facility at a savings of approximately \$525,000 in system costs.

Additional Information

Prior Introductions: None.

Cross File: HB 919 (Delegate Hough, *et al.*) - Judiciary.

Information Source(s): Baltimore and Garrett counties, Commission on Criminal Sentencing Policy, Judiciary (Administrative Office of the Courts), Office of the Public Defender, Department of Public Safety and Correctional Services, Department of Legislative Services

Fiscal Note History: First Reader - February 23, 2011
mc/hlb Revised - Senate Third Reader - April 9, 2011

Analysis by: Guy G. Cherry

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