

Department of Legislative Services
Maryland General Assembly
2012 Session

FISCAL AND POLICY NOTE

House Bill 794
Judiciary

(Delegate Waldstreicher, *et al.*)

Criminal Procedure - Revision of Verdict or Judgment - Procedures

The bill establishes that in a criminal case, a court may not exercise its statutory authority to revise and exercise control over a judgment unless the court follows the procedures for revisions of sentences under Maryland Rule 4-345. The bill also prohibits a court from exercising revisory power and control over a verdict in a criminal case unless the court follows the procedures for a motion for a new trial under Maryland Rule 4-331.

Fiscal Summary

State Effect: None. The bill is procedural and does not materially affect State finances.

Local Effect: None. The bill is procedural and does not materially affect local finances.

Small Business Effect: None.

Analysis

Current Law:

Revision of Sentence

A court has revisory power and control over a judgment for 30 days after the entry of the judgment or for a longer amount of time if an appropriate motion has been filed within that time period. After the 30 days, a court has revisory power over a sentence in cases of fraud, mistake, irregularity, or failure of a court employee or a clerk's office employee to perform a duty required by statute or rule.

A court also has revisory power over a sentence if the defendant files a motion seeking a revision within 90 days after imposition of the sentence. The court may not, however, revise the sentence after the expiration of five years from the date the sentence originally was imposed on the defendant, and may not increase the sentence. In the District Court, this revisory power only applies if an appeal has not been perfected or has been dismissed.

A court may modify, reduce, correct, or vacate a sentence only on the record in open court after hearing from the defendant, the State, and from each victim or victim's representative who requests an opportunity to be heard.

Motion for a New Trial

In general, a defendant has 10 days after the verdict to file a motion for a new trial. The decision to grant a new trial is at the discretion of the trial court. Grounds for seeking a new trial include:

- a verdict contrary to the evidence;
- misconduct of the jurors or of the officers in charge of the jurors;
- bias and disqualification of the jurors; and
- misconduct or error of the judge or prosecution.

A motion for a new trial also may be granted on the ground that newly discovered evidence exists that could not have been discovered by due diligence within 10 days after the original verdict, on motion filed within one year after the later of imposition of a sentence or receipt of a mandate (*i.e.*, ruling) from the Court of Special Appeals or Court of Appeals. A motion for a new trial on the ground of newly discovered evidence may be filed at any time if (1) a sentence of death was imposed and the newly discovered evidence, if proven, would show that the defendant is innocent of the murder or an aggravating circumstance or other condition of eligibility for the death penalty; or (2) the motion is based on DNA identification testing or other generally accepted scientific techniques, the results of which, if proven, would show the defendant is innocent of the crime.

The court may set aside an unjust or improper verdict and grant a new trial on motion filed within 90 days after imposition of sentence.

Additional Information

Prior Introductions: None.

Cross File: Though designated as a cross file, SB 369 is not identical.

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

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ncs/kdm

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