

SENATE BILL 793

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3lr2448
CF 3lr3094

By: **Senators Kelley, Benson, Currie, Montgomery, Pinsky, Pugh, and Robey**
Introduced and read first time: February 1, 2013
Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Task Force to Study the Use of Private Diversion Programs**

3 FOR the purpose of establishing the Task Force to Study the Use of Private Diversion
4 Programs; providing for the composition, chair, and staffing of the Task Force;
5 prohibiting a member of the Task Force from receiving certain compensation,
6 but authorizing the reimbursement of certain expenses; requiring the Task
7 Force to study and make recommendations regarding certain matters; requiring
8 the Task Force to report its findings and recommendations to the Governor and
9 the General Assembly on or before certain dates; providing for the termination
10 of this Act; and generally relating to the Task Force to Study the Use of Private
11 Diversion Programs.

12 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
13 MARYLAND, That:

14 (a) There is a Task Force to Study the Use of Private Diversion Programs.

15 (b) The Task Force consists of the following members:

16 (1) two members of the Senate of Maryland, appointed by the
17 President of the Senate;

18 (2) two members of the House of Delegates, appointed by the Speaker
19 of the House;

20 (3) the Chief of the Consumer Protection Division of the Office of the
21 Attorney General, or the Chief's designee;

22 (4) the Commissioner of Financial Regulation, or the Commissioner's
23 designee;

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (5) the Public Defender of Maryland, or the Public Defender's
2 designee;

3 (6) the following individuals, appointed by the Governor:

4 (i) two representatives of the Maryland State's Attorneys'
5 Association, including one whose office uses a private diversion program and one
6 whose office does not;

7 (ii) a representative of the Maryland Consumer Rights
8 Coalition;

9 (iii) a representative of the Legal Aid Bureau;

10 (iv) a representative of the Public Justice Center;

11 (v) a representative of the American Civil Liberties Union;

12 (vi) a representative of the Maryland Criminal Defense
13 Attorneys Association;

14 (vii) a representative of a big business trade group;

15 (viii) a representative of a small business trade group;

16 (ix) an academic expert in consumer law; and

17 (x) a representative of a private diversion company.

18 (c) The Governor shall designate the chair of the Task Force.

19 (d) The Consumer Protection Division of the Office of the Attorney General
20 shall provide staff for the Task Force.

21 (e) A member of the Task Force:

22 (1) may not receive compensation as a member of the Task Force; but

23 (2) is entitled to reimbursement for expenses under the Standard
24 State Travel Regulations, as provided in the State budget.

25 (f) The Task Force shall:

26 (1) study the laws governing, practices involving, and effects of the use
27 of for-profit companies to operate private diversion programs for persons who have
28 allegedly passed bad checks or committed other minor offenses;

1 (2) for any such programs operating in the State, consider:

2 (i) the rules, guidelines, policies, or practices relating to the
3 private diversion program;

4 (ii) the procedures or remedies available to individuals who
5 believe they have been wrongfully required or asked to participate in a private
6 diversion program;

7 (iii) the policies for investigating potential violations of State
8 criminal laws before requiring or asking any person to participate in a private
9 diversion program;

10 (iv) who determines whether there is probable cause to believe
11 that a violation of State criminal laws has occurred before persons are required or
12 asked to participate in a private diversion program, and how these probable cause
13 determinations are made;

14 (v) the policies, procedures, or practices intended to monitor and
15 reduce the occurrence of error in the identification of individuals required or asked to
16 participate in a private diversion program;

17 (vi) the ethics of the use of private prosecution programs by
18 State's Attorneys, including the propriety of allowing an outside individual or entity to
19 send letters on letterhead from the Office of the State's Attorney, threaten prosecution
20 by the Office of the State's Attorney, or require or present the private prosecution
21 program as an explicit alternative to criminal prosecution;

22 (vii) the scope of private diversion programs, including the
23 offenses covered, and the number of persons affected;

24 (viii) the efficacy of private diversion programs, including the
25 comparative efficacy of publicly operated programs;

26 (ix) the availability of private diversion programs to persons who
27 cannot afford the required fees; and

28 (x) best practices and lessons learned from other states.

29 (g) (1) On or before December 1, 2013, the Task Force shall submit an
30 interim report of its findings and recommendations to the Governor and, in accordance
31 with § 2-1246 of the State Government Article, the General Assembly.

32 (2) On or before October 1, 2014, the Task Force shall submit a final
33 report of its findings and recommendations to the Governor and, in accordance with §
34 2-1246 of the State Government Article, the General Assembly.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 July 1, 2013. It shall remain effective for a period of 2 years and, at the end of June 30,
3 2015, with no further action required by the General Assembly, this Act shall be
4 abrogated and of no further force and effect.