

Department of Legislative Services
Maryland General Assembly
2015 Session

FISCAL AND POLICY NOTE
Revised

House Bill 120
Judiciary

(Delegate Vallario, *et al.*)

Judicial Proceedings

Criminal Procedure - Failure to Appear - Rescheduling

This bill authorizes a judge to set a bond when issuing a bench warrant for a person who has been charged with a crime and who has willfully failed to surrender after being admitted to bail or released on recognizance. If the person posts the bond set by the judge under the bill, a judicial officer must mark the bench warrant satisfied and the court must reschedule the hearing or trial.

Fiscal Summary

State Effect: Minimal decrease in general fund revenues from fines imposed in the District Court if fewer individuals are convicted of a failure to appear as a result of the bill. Potential significant increase in general fund expenditures for the Judiciary for computer reprogramming in FY 2016 only. Potential decrease in general fund incarceration expenditures if individuals can avoid being arrested for or convicted of a failure to appear by posting the bond created by the bill. Revenues are not affected.

Local Effect: Decrease in local incarceration expenditures if individuals can avoid being arrested for or convicted of a failure to appear by posting the bond created by the bill. Revenues are not affected.

Small Business Effect: Potential meaningful impact if sureties are able to write more bail bonds as a result of the bill.

Analysis

Current Law: If a person has been charged with a crime and admitted to bail or released on recognizance and the person forfeits the bail or recognizance and willfully fails to surrender, a bench warrant must be issued for the person's arrest.

A person who has been admitted to bail or released on recognizance in a criminal case in the State and who willfully fails to surrender within 30 days after the date of forfeiture is guilty of a misdemeanor, punishable by (1) imprisonment for up to five years and/or a \$5,000 maximum fine if the bail or recognizance was given in connection with a charge of a felony or pending an appeal, certiorari, habeas corpus, or postconviction proceeding after conviction of any crime or (2) imprisonment for up to one year and/or a \$1,000 maximum fine if the bail or recognizance was given in connection with a charge of a misdemeanor or for appearance as a witness.

A court is still authorized to punish for contempt under these circumstances. A prosecution for failure to appear in connection with a felony charge or pending an appeal, certiorari, habeas corpus, or postconviction proceeding after conviction for any crime, may be instituted at any time and a person prosecuted for this offense may reserve a point or question for in banc review as provided under the Maryland Constitution.

Background: According to the Judiciary, there were 75,109 failures to appear in the District Court and 14,556 failures to appear in the circuit courts during fiscal 2014.

State Expenditures: General fund expenditures increase significantly in fiscal 2016 only for the Judiciary to reprogram its computers to accommodate the bill's provisions. The Judiciary estimates the level of effort associated with this task at 3,050 hours at a cost of \$234,043 in fiscal 2016 only. The Department of Legislative Services concurs that computer reprogramming costs may be incurred, but cannot verify the level of effort required to implement the bill. In any event, this cost may be offset by a decrease in general fund incarceration expenditures if fewer individuals are incarcerated for a failure to appear by posting the bond created by the bill. However, the extent to which this may occur cannot be reliably estimated at this time and can only be determined after actual experience under the bill.

The bill may also reduce the number of initial appearances before District Court commissioners for failures to appear. However, any corresponding decrease in general fund expenditures depends on whether the bill reduces the number of shifts of appointed attorneys designated by the State to represent indigent defendants at initial appearances.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): 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 - March 2, 2015
min/kdm Revised - House Third Reader - March 27, 2015
Revised - Enrolled Bill - April 28, 2015

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