

Department of Legislative Services
 Maryland General Assembly
 2015 Session

FISCAL AND POLICY NOTE

House Bill 397 (Delegate Carter, *et al.*)
 Judiciary

Commercial Bail Data Analysis

This bill requires the Maryland Statistical Analysis Center (MSAC) within the Governor’s Office of Crime Control and Prevention (GOCCP), in consultation with the Administrative Office of the Courts, to develop a procedure and methodology for the compilation and analysis of specified data related to the imposition of bail and the preparation of a report and recommendations based on the data. MSAC must submit a report of its findings and recommendations to the Governor and the General Assembly by December 31, 2015.

The Act takes effect on June 1, 2015, and terminates June 30, 2016.

Fiscal Summary

State Effect: General fund expenditures increase by \$192,000 in FY 2016 only for GOCCP and the Judiciary to compile and analyze data and produce the required report. Revenues are not affected.

(in dollars)	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	192,000	0	0	0	0
Net Effect	(\$192,000)	\$0	\$0	\$0	\$0

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

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: MSAC must compile the following information for each defendant appearing at an initial appearance or bail review for the period of June 1, 2015, through November 30, 2015:

- the defendant's pending criminal cases, active or prior failures to appear, previous misdemeanor and felony convictions, and current probation and parole status;
- the defendant's primary offense;
- the defendant's initial appearance outcome, such as released on recognizance, unsecured, released with bond, or held without bond;
- if the defendant was granted bond, the nature of the bond, such as cash, property, or surety bond;
- if the defendant is held in lieu of posting bond, the bond amount;
- if and when bond was posted;
- whether bond was posted by the defendant, a surety, or a surety insurer;
- whether the defendant failed to appear or was rearrested during the pretrial phase;
- the defendant's socioeconomic level, as related to the federal poverty guidelines;
- the defendant's race;
- the defendant's national origin;
- the defendant's spoken language, if other than English;
- whether an interpreter was provided for the defendant during the proceedings;
- the defendant's age;
- the defendant's gender;
- the defendant's residence; and
- whether the defendant was homeless.

MSAC must analyze the collected data in accordance with the developed methodology.

Background: On May 27, 2014, the Governor issued an executive order establishing the Governor's Commission to Reform Maryland's Pretrial System to look at best practices from around the country and recommend how an objective-validated risk assessment tool could be used in Maryland to help determine who should be detained and who should be released before trial. The executive order directed the 23-member panel to (1) identify ways to reduce detainment times; (2) assist and advise the State on issues arising from the ongoing implementation on a pilot basis of a risk assessment tool in one or more counties; and (3) develop and issue legislative recommendations.

The Governor’s Commission to Reform Maryland’s Pretrial System met several times during 2014. Three subcommittees were established at the second meeting: (1) the Managing Public Safety through Risk-based Decision Making Subcommittee; (2) the Pretrial System Improvement Subcommittee; and (3) the Individual Rights and Collateral Consequences Subcommittee. The subcommittees worked independently and kept the full task force abreast of their progress. The commission submitted its final report in December 2014. The commission approved 14 recommendations, including the complete elimination of the use of secured, financial conditions of pretrial release (cash, property, or surety bond).

State Expenditures: General fund expenditures increase by \$192,022 in fiscal 2016, only which accounts for a 30-day start-up delay to account for the compressed time allocated for report completion. This estimate reflects the cost of hiring one contractual employee to assist GOCCP with data analysis and for the programming of the Judiciary’s computers to produce the data report required under the bill. It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Contractual Position	1
Salary and Fringe Benefits	\$43,748
Judiciary – Computer Programming	143,404
Operating Expenses	<u>4,870</u>
Total FY 2016 State Expenditures	\$192,022

This estimate does not include any health insurance costs that could be incurred for specified contractual employees under the State’s implementation of the federal Patient Protection and Affordable Care Act.

GOCCP: The full-time contractual data analyst hired within GOCCP will work with the Judiciary to create the methodology for the reporting of the data, analyze the data, and write the report.

Judiciary: The Judiciary advises that it is able to transmit data to MSAC by way of a “File Transfer Protocol” or, alternatively, allow MSAC to access and download the data. The Judiciary’s data submission can only be case-based and not defendant-based, although it could be sorted and searched by defendant’s name for pending cases. The Judiciary estimates that production of the electronic transfer of the data set requires 1,891.2 hours of computer programming, at an approximate cost of \$143,404.

The Judiciary advises that it is limited by the case information it is able to provide and is unable to provide the defendant’s national origin, his/her spoken language, the type of interpreter requested, whether the defendant was rearrested during the pretrial phase unless it was for the same case, previous misdemeanor and felony convictions, and current

probation status unless a disposition was entered. The Judiciary is also unable to definitively identify whether the defendant was homeless. Usually “address unknown” is entered for a homeless person but may also be entered for other reasons.

No costs are incurred beyond fiscal 2016 due to the reporting deadline and the bill’s termination date.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Governor’s Office of Crime Control and Prevention, Judiciary (Administrative Office of the Courts), Department of Legislative Services

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mel/kdm

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