

Department of Legislative Services
 Maryland General Assembly
 2019 Session

FISCAL AND POLICY NOTE
 Third Reader - Revised

Senate Bill 176

(The President, *et al.*) (By Request - Administration)

Judicial Proceedings

Rules and Executive Nominations

State Commission on Criminal Sentencing Policy - Annual Report - Crimes of
 Violence

This Administration bill requires the Maryland State Commission on Criminal Sentencing Policy (MSCCSP) to report specified information from the preceding calendar year for cases involving a crime of violence under § 14-101 of the Criminal Law Article to the Governor, the Senate Judicial Proceedings Committee, and the House Judiciary Committee. MSCCSP must submit this information by December 1, 2019, and by each December 1 thereafter. The information in the report must be disaggregated by judicial circuit.

Fiscal Summary

State Effect: General fund expenditures increase by \$8,600 in FY 2020. Future year expenditures reflect ongoing costs. Revenues are not affected.

(in dollars)	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	8,600	10,800	11,100	11,500	11,900
Net Effect	(\$8,600)	(\$10,800)	(\$11,100)	(\$11,500)	(\$11,900)

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

Local Effect: None.

Small Business Effect: The Administration has determined that this bill has minimal or no impact on small business (attached). The Department of Legislative Services concurs with this assessment. (The attached assessment does not reflect amendments to the bill.)

Analysis

Bill Summary: MSCCSP must report the following information, disaggregated by type of offense: (1) the number of American Bar Association (ABA) pleas; (2) the number of non-ABA pleas; (3) the number of suspended sentences; and (4) for convictions in which a portion of the sentence was suspended, the average percentage of the total sentence suspended. For sentencing events that resulted in a departure from the sentencing guidelines, MSCCSP must report the departure reasons cited and the percentage of events in which each reason was cited.

All of the information listed above must be disaggregated by judicial circuit.

Current Law: Section 14-101(a) of the Criminal Law Article defines a “crime of violence” as (1) abduction; (2) arson in the first degree; (3) kidnapping; (4) manslaughter, except involuntary manslaughter; (5) mayhem; (6) maiming; (7) murder; (8) rape; (9) robbery; (10) carjacking (including armed carjacking); (11) first- and second-degree sexual offenses; (12) use of a firearm in the commission of a felony or other crime of violence, except possession with intent to distribute a controlled dangerous substance; (13) child abuse in the first degree; (14) sexual abuse of a minor younger than age 13 under specified circumstances; (15) home invasion; (16) an attempt to commit crimes (1) through (15); (17) continuing course of certain sexual conduct with a child; (18) assault in the first degree; and (19) assault with intent to murder, rape, rob, or commit a sexual offense in the first or second degree.

An ABA plea agreement refers to a disposition that resulted from a plea agreement that the court approved relating to a particular sentence, disposition, or other judicial action, and the agreement is binding on the court under Maryland Rule 4-243 (c). A non-ABA agreement refers to a disposition that resulted from a plea agreement reached by the parties but was not approved by, and is thus not binding on, the court.

MSCCSP is required to conduct an annual review of sentencing policy and practice and submit a report to the General Assembly by January 31 of each year. The report must (1) include any changes to the sentencing guidelines made during the preceding year; (2) review judicial compliance with the sentencing guidelines, including compliance by crime and by judicial circuit; (3) review reductions or increases in original sentences that have occurred because of reconsiderations of mandatory sentences for crimes of violence; and (4) categorize information on these reconsiderations of sentences by offense and by judicial circuit.

Background: The General Assembly created MSCCSP in 1999, after a study commission recommended the creation of a permanent commission in its final report. MSCCSP consists of 19 members, including members of the Judiciary, members who are active in

Maryland's criminal justice system, members of the General Assembly, and public representatives.

MSCCSP was created to oversee sentencing policy in Maryland and is primarily responsible for maintaining and monitoring the State's voluntary sentencing guidelines, which are intended to promote fair and proportional sentencing while eliminating sentencing disparity.

MSCCSP is authorized to adopt sentencing guidelines to be considered by courts when determining the appropriate sentence for a criminal defendant, as well as the collection and automation of sentencing guidelines data. All sentencing guidelines data are provided on the sentencing guidelines worksheet, which is completed to determine the recommended sentencing guidelines outcome and to record sentencing data for offenses prosecuted in circuit court. After a sentencing judge or the judge's designee completes the worksheet, the judge reviews the worksheet for completeness and accuracy and submits a copy of the worksheet (paper or electronic) to MSCCSP. The commission's staff use data collected from these worksheets to analyze sentencing trends, monitor circuit court sentencing compliance, and adopt changes to the guidelines consistent with legislative intent when necessary.

MSCCSP advises that based on a review of the Maryland Sentencing Guidelines Database, the commission received information for 2,571 counts and 1,731 individuals sentenced for a crime of violence under § 14-101 of the Criminal Law Article in the State's circuit courts during fiscal 2018.

State Expenditures: General fund expenditures for MSCCSP increase by \$8,609 in fiscal 2020, which accounts for the bill's October 1, 2019 effective date. This estimate reflects the cost of additional work hours for MSCCSP's existing graduate research assistant (salary and fringe benefits). The data required to meet the bill's requirements is contained in the sentencing guidelines worksheet. However, the bill places additional responsibilities on MSCCSP staff, including (1) data collection, data management, and data analysis for approximately 2,500 crime of violence convictions per year; (2) communicating with the courts and other stakeholders to verify information; and (3) responding to an increased volume of data requests. To handle the additional workload, MSCCSP needs to increase the number of work hours for its existing graduate research assistant position.

Future year expenditures reflect ongoing costs associated with additional work hours for the graduate research assistant (a full salary with annual increases and employee turnover).

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.

Additional Information

Prior Introductions: None.

Cross File: HB 229 (The Speaker, *et al.*) (By Request - Administration) - Judiciary.

Information Source(s): Governor's Office of Crime Control and Prevention; Maryland State Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Department of Legislative Services

Fiscal Note History: First Reader - January 29, 2019
an/kdm Third Reader - April 4, 2019
Revised - Amendment(s) - April 4, 2019

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: State Commission on Criminal Sentencing Policy - Annual Report - Crimes of Violence

BILL NUMBER: SB 176/HB 229

PREPARED BY: Governor's Legislative Office

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

 X WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS