

**Department of Legislative Services**  
 Maryland General Assembly  
 2020 Session

**FISCAL AND POLICY NOTE**  
**Third Reader - Revised**

Senate Bill 481

(Senator Lee, *et al.*)

Judicial Proceedings

Judiciary

**State Commission on Criminal Sentencing Policy – Annual Report – Crimes of Violence**

This emergency bill requires the Maryland State Commission on Criminal Sentencing Policy (MSCCSP) by December 1, 2021, and each December 1 thereafter, to report to the Governor, the House Judiciary Committee, and the Senate Judicial Proceedings Committee, specified information for the preceding calendar year for cases involving a crime of violence under § 14-101 of the Criminal Law Article. The bill also requires the Governor’s Office of Crime Prevention, Youth, and Victim Services (GOVS), by December 31, 2020, to submit a report on the use of American Bar Association (ABA) pleas in calendar 2019 to the Governor and the General Assembly.

**Fiscal Summary**

**State Effect:** General fund expenditures increase by \$11,500 annually beginning in FY 2021. It is assumed there is no effect in FY 2020, despite the bill’s emergency status. Revenues are not affected.

(in dollars)	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	11,500	11,500	11,500	11,500	11,500
Net Effect	(\$11,500)	(\$11,500)	(\$11,500)	(\$11,500)	(\$11,500)

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

**Local Effect:** None.

**Small Business Effect:** None.

## Analysis

### Bill Summary:

An “ABA plea” is a plea agreement that a court has approved relating to a particular sentence, disposition, or other judicial action and is binding on the court under Maryland Rule 4-243(c).

### *Maryland State Commission on Criminal Sentencing Policy*

MSCCSP must report the following information, disaggregated by type of offense: (1) the number of 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.

### *Governor’s Office of Crime Prevention, Youth, and Victim Services*

GOVS, in consultation with and with assistance from MSCCSP, must analyze the use of ABA pleas in calendar 2019 based on information submitted to MSCCSP. GOVS must report the results of this analysis to the Governor and the General Assembly by December 31, 2020. The required report must include data on the use of ABA pleas by judicial circuit and the percentage of sentences under ABA pleas that would have complied with the sentencing guidelines if the sentence had been imposed under another type of disposition.

**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) felony sex trafficking and forced marriage; (17) an attempt to commit crimes (1) through (16); (18) continuing course of certain sexual conduct with a child; (19) assault in the first degree; and (20) assault with intent to murder, rape, rob, or commit a sexual offense in the first or second degree.

## **Background:**

### *Violent Crime*

The surge in violent crime in Baltimore City has been the subject of extensive discussion and media coverage in recent years. The city experienced a total of 344 homicides in 2015, a 63% increase over the 211 homicides recorded the previous year. Since 2016, there have been more than 300 homicides each year in Baltimore City.

### *Maryland State Commission on Criminal Sentencing Policy*

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 2,760 counts and 1,788 individuals sentenced for a crime of violence under § 14-101 of the Criminal Law Article in the State's circuit courts during fiscal 2019.

**State Expenditures:** General fund expenditures for MSCCSP increase by \$11,482 annually beginning in fiscal 2021. This estimate reflects the cost of additional work hours for MSCCSP's existing graduate research assistant (salary and fringe benefits). 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.

The bill places additional responsibilities on MSCCSP staff, including data collection, data management, and data analysis for approximately 2,800 crime of violence convictions

per year and the use of ABA pleas by circuit. To handle the additional workload, MSCCSP needs to increase the number of work hours for its existing graduate research assistant position. MSCCSP advises that these additional hours will need to commence with the graduate assistant's start date in August 2020 (the beginning of the academic year) so that procedures and ongoing data analysis can be fully implemented and incorporated into the preparation of and assistance with the required reports.

GOVS can implement the bill with existing budgeted resources.

**Additional Comments:** Chapter 11 of 2020 renamed the Governor's Office of Crime Control and Prevention to be the Governor's Office of Crime Prevention, Youth, and Victim Services.

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### **Additional Information**

**Prior Introductions:** SB 176 of 2019, a similar bill, passed the Senate with amendments and was referred to the House Rules and Executive Nomination Committee, but no further action was taken. Its cross file, HB 229, received a hearing in the House Judiciary Committee, but no further action was taken.

**Designated Cross File:** HB 780 (Delegate Pippy, *et al.*) - Judiciary.

**Information Source(s):** Maryland State Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Office of the Public Defender; Maryland State's Attorneys' Association; Department of Public Safety and Correctional Services; *Baltimore Sun*; Department of Legislative Services

**Fiscal Note History:** First Reader - February 11, 2020  
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