

Department of Legislative Services
 Maryland General Assembly
 2020 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 272 (The President, *et al.*) (By Request - Administration)
 Judicial Proceedings

State Commission on Criminal Sentencing Policy - Annual Report - Crimes of Violence (The Judicial Transparency Act of 2020)

This Administration bill expands the reporting requirements of the Maryland State Commission on Criminal Sentencing Policy (MSCCSP) by requiring MSCCSP to provide in its annual report additional information for cases involving a “crime of violence” under § 14-101 of the Criminal Law Article. MSCCSP must include appropriate entry locations on a sentencing guidelines worksheet for a court to report this information. The bill also requires the Governor’s Office of Crime Control and Prevention (GOCCP) to submit a report on the use of American Bar Association (ABA) pleas in calendar 2019 to the Governor and the General Assembly by December 31, 2020.

Fiscal Summary

State Effect: General fund expenditures increase by \$21,500 in FY 2021. Future year expenditures reflect ongoing costs. Revenues are not affected.

(in dollars)	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	21,500	11,500	11,500	11,500	11,500
Net Effect	(\$21,500)	(\$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: 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.

Analysis

Bill Summary: MSCCSP must include the following information in its annual report for each case involving a crime of violence:

- the crime of which the defendant was convicted;
- the sentence imposed;
- the applicable sentencing guidelines range;
- the disposition of the case, as indicated on the sentencing guidelines worksheet;
- for a conviction with a partially suspended sentence, the amount of time suspended and the percentage of the sentence suspended;
- for a sentencing event that departed from the guidelines, the reasons for departure cited;
- the court and judicial circuit with jurisdiction over the case; and
- the sentencing judge.

Report on ABA Pleas

GOCCP, in consultation with and with assistance from MSCCSP, must analyze the use of ABA pleas in calendar 2019 based on information submitted to MSCCSP. GOCCP 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.

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).

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.

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:

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. This bill is part of the Governor's legislative package to address violent crime, including initiatives to increase judicial transparency.

MSCCSP

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 \$21,482 in fiscal 2021. This estimate reflects the cost of additional work hours for MSCCSP’s existing graduate research assistant (salary and fringe benefits) and one-time computer reprogramming costs, discussed in more detail below.

Salary and Fringe Benefits (Additional Hours)	\$11,482
Computer Reprogramming	<u>10,000</u>
Total FY 2021 Expenditures	\$21,482

Future year expenditures reflect ongoing costs associated with additional work hours for the graduate research assistant.

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.

MSCCSP does not currently maintain information on sentencing judges. Compilation of this information requires the commission to reprogram its electronic worksheet submission system, known as the Maryland Automated Guidelines System (MAGS). The cost associated with reprogramming MAGS is \$10,000 in fiscal 2021 only.

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; communicating with the courts and other stakeholders to verify information; testing and implementing updates to MAGS; and assisting with training needs. To handle the additional workload, MSCCSP needs to increase the number of work hours for its existing graduate research assistant position. MSCCSP advises that despite the bill’s October 1, 2020 effective date, 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 report due by January 31, 2021.

GOCCP and the Judiciary can implement the bill with existing budgeted resources.

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 Nominations 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 355 (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); *Baltimore Sun*; Department of Legislative Services

Fiscal Note History: First Reader - February 2, 2020
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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 (The Judicial Transparency Act of 2020)

BILL NUMBER: HB355

PREPARED BY: Governor's Legislative Office

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

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