

Department of Legislative Services
Maryland General Assembly
2022 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 822
Judiciary

(Delegates Williams and Charles)

Criminal Procedure - Victims' Rights - Dismissal of Charges

This bill establishes an exception to the general requirement that a court dismiss charges against a defendant found incompetent to stand trial, as specified in statute, if a victim has filed a notification request form under § 11-104 of the Criminal Procedure Article and petitions the court for extraordinary cause to extend the time. The bill also alters existing statutory provisions that address the rights of specified victims in cases when a person has been committed to the Maryland Department of Health (MDH) after being found *not criminally responsible* for a crime of violence by granting those victims the right to petition the court to extend the time to dismiss a charge regarding a defendant found *incompetent to stand trial* (as authorized by the bill).

Fiscal Summary

State Effect: The bill is procedural and is not anticipated to materially affect State finances or operations.

Local Effect: The bill is procedural and is not anticipated to materially affect local finances or operations.

Small Business Effect: None.

Analysis

Current Law:

Dismissal of Charges for a Defendant Found Incompetent to Stand Trial

Whether or not the defendant is confined and unless the State petitions the court for extraordinary cause to extend the time, the court must dismiss the charge against a defendant found incompetent to stand trial. If the defendant was charged with a felony or a crime of violence under § 14-101 of the Criminal Law Article, the court must dismiss the charge after the lesser of the expiration of five years or the maximum sentence for the most serious offense charged. For all other defendants, the court must dismiss the charge after the lesser of the expiration of three years or the maximum sentence for the most serious offense charged.

Whether or not the defendant is confined, if the court considers that resuming the criminal proceeding would be unjust because so much time has passed since the defendant was found incompetent to stand trial, the court must dismiss the charge without prejudice. However, the court may not dismiss a charge without providing the State's Attorney and a victim or victim's representative who has properly requested notification advance notice and an opportunity to be heard.

If the charges are dismissed, the court must notify (1) the victim of the crime charged or the victim's representative who properly requested notification and (2) the Criminal Justice Information System Central Repository.

Victims' Rights After a Defendant Is Found Not Criminally Responsible

Whenever a person has been committed to MDH after being found not criminally responsible for a crime of violence, and a victim of the crime or a victim's representative has submitted a written request to MDH for notification or submitted a notification request form, as specified, the victim or victim's representative has the rights provided to victims under § 3-123 of the Criminal Procedure Article. Section 3-123 grants a variety of rights to a victim or a victim's representatives in cases involving competency to stand trial, not criminally responsible pleas, and individuals committed to MDH.

Victims' Rights – Notification, etc.

Under Maryland law, a victim of a crime or delinquent act (or a representative in the event the victim is deceased, disabled, or a minor) has a broad range of specific rights during the criminal justice process. On first contact with a victim, a law enforcement officer, District Court commissioner, or juvenile intake officer must give an identified victim a

pamphlet that advises the victim of the rights, services, and procedures available in the time before and after the filing of a charging document. Also, within 10 days after the filing or unsealing of an indictment or information, the prosecuting attorney must provide a victim with a pamphlet that describes the rights, services, and procedures available to a victim after the indictment or information is filed and a notification request form by which a victim may request notice of various proceedings. Many of the rights afforded a victim of crime depend on a victim completing a notification request form or requesting notice by following the Maryland Electronic Courts (MDEC) system protocol. For example, unless provided by the MDEC system, the prosecuting attorney must provide prior notice to a victim, if practicable, of each court proceeding in the case, the terms of any plea agreement, and the victim's right to file a victim impact statement. However, a victim who has not filed a notification request form is still entitled to submit a victim impact statement to the court.

If a proper request for notification has been submitted and prior notice is not practicable or if the victim or victim's representative is not present at the proceeding, the prosecuting attorney must tell the victim or victim's representative of the terms of any plea agreement, judicial action, and proceeding that affects the interests of the victim or victim's representative, including a dismissal, *nolle prosequi*, or setting of the charges, as soon after a proceeding as practicable. Whether or not a notification request has been submitted, the prosecuting attorney may give the victim or victim's representative information about the status of the case upon request.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Baltimore, Charles, Frederick, Montgomery, and Somerset counties; Judiciary (Administrative Office of the Courts); Office of the Public Defender; Maryland Department of Health; Department of Juvenile Services; Department of Legislative Services

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