

Department of Legislative Services
Maryland General Assembly
2022 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 958
Judiciary

(Delegate Williams)

Criminal Procedure – Postconviction Review – Motion for Reduction of Sentence

This bill authorizes a State’s Attorney to file a motion to reduce the sentence of a person serving a sentence of incarceration at any time during the period of active incarceration if it is in the interest of justice. The bill establishes related procedures, including required notice, responses to a motion, hearings on a motion, and decisions on a motion.

Fiscal Summary

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

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

Small Business Effect: None.

Analysis

Bill Summary: The incarcerated individual may file a response with additional information for the court’s consideration within 60 days after the State’s Attorney files the motion to reduce the individual’s sentence.

The court must hold a timely hearing on the motion, and the victim or the victim’s representative must be notified of the hearing in accordance with specified statutes. The incarcerated individual must be present at the hearing unless the individual waives the right to be present. The individual may appear at the hearing through video conference.

The court may consider the following factors when determining whether to reduce a sentence: (1) the inmate’s disciplinary record and record of rehabilitation and maturity

while incarcerated; (2) evidence that reflects whether age, time served, or diminished physical condition has reduced the inmate's risk for future violence; and (3) evidence reflecting a change in circumstances since the original conviction and sentencing such that the inmate's continued incarceration is no longer in the interest of justice.

After a hearing on the motion, the court may reduce the duration of the sentence if the court determines that the interests of justice will be better served by a reduced sentence. The court must explain the basis for its decision to grant or deny the motion in open court or in a written opinion. If the court denies the motion, the State's Attorney may not file a subsequent motion for at least three years.

Current Law: Pursuant to Maryland Rule 4-345, a court may correct an illegal sentence at any time and has revisory power over a sentence in case of fraud, mistake, or irregularity. The court also has revisory power over the sentence upon a motion filed after imposition of the sentence, as specified; however, it may not revise the sentence after the expiration of five years from the date the sentence originally was imposed on the defendant and it may not increase the sentence.

Under the Review of Criminal Sentences Act (§§ 8-102 through 8-109 of the Criminal Procedure Article), with certain exceptions, a person convicted of a crime by a circuit court and sentenced to a term of imprisonment that exceeds two years in a correctional facility is entitled to have a panel of three circuit court judges of the judicial circuit in which the sentencing court is located review the appropriateness of the sentence. The sentencing judge may not be a member of the review panel but may sit with the review panel in an advisory capacity. The defendant must file a motion within 30 days after sentencing to exercise this right to review.

After a hearing, the panel may order a different sentence to be imposed or served, including an increased sentence, a decreased sentence, a suspended sentence to be served wholly or partly, or a sentence to be suspended with or without probation. The panel may decide that the sentence should remain unchanged with or without a hearing. In general, a majority of the members of the review panel is necessary to render a decision. The panel has 30 days after the filing date of the motion to make a decision.

Should the panel increase the sentence, a defendant may then appeal on the limited grounds that the sentence was not within statutory or constitutional limits or that the panel acted from ill will, prejudice, or other impermissible considerations. Otherwise, there is no right to appeal a decision made by the review panel.

A person is not entitled to this sentence review if the person's sentence was imposed by more than one judge. A person is not entitled to a review of an order requiring a suspended part of a sentence to be served if the sentence originally was wholly or partly suspended,

the sentence was reviewed, and the suspended sentence or suspended part of that sentence later was required to be served.

Additional Information

Prior Introductions: None.

Designated Cross File: SB 976 (Senator Patterson) - Rules.

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

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