
UNFAVORABLE - HB 1458 - sentencing guidelines

TO: Chairman Luke Clippinger and House Judiciary Committee

FROM: Phil Caroom

DATE: March 10, 2020

With this written testimony, I urge the Committee to give an unfavorable report to HB 1458 as not necessary and not helpful for Marylanders.

The bill is not necessary because we already know the “truth” about plea agreements and sentencing guidelines. Our state’s Sentencing Guidelines commission provides annual reports this. Currently, nearly 90 percent of all Maryland Circuit Court criminal cases are resolved by plea agreements. The 2019 annual report states:

“The vast majority of cases were resolved by either an ABA plea agreement (48.5%)-[that is, with a specific sentence the judge must accept], or a non-ABA plea agreement (35.4%). Slightly more than three-quarters of guidelines cases were sentenced to incarceration, and the median sentence length among those incarcerated (excluding suspended time) was 1 year.”

“The overall guidelines compliance rate in fiscal year 2019 was 82.2%, which exceeded the Commission’s goal of 65% compliance. When departures occurred, they were more often below the guidelines than above. All eight trial court judicial circuits met the benchmark rate of 65% compliance. Departures were least likely for person offenses, followed closely by property offenses and drug offenses. A comparison of judicial compliance rates by type of disposition (plea agreement, plea with no agreement, bench trial, and jury trial) showed that compliance was most likely in cases adjudicated by a plea agreement.

“In contrast, compliance was least likely in cases adjudicated by a bench trial. When considering compliance rates by both crime category and disposition, the highest compliance rate was observed for property offenses adjudicated by a bench trial. Drug offenses resolved by a bench trial had the lowest compliance rate, and all departures in this category were below the guidelines.

“Efforts to facilitate the reporting of reasons for departing from the guidelines have helped to address the underreporting of departure reasons. When reported, the most commonly cited reason for departures below the guidelines was that the parties reached a plea agreement that called for a reduced sentence. In comparison, the most commonly cited reason for departures above the guidelines was the State’s Attorney or Division of Parole and Probation’s recommendation.”

What would HB 1458’s function labeling a plea-agreement outside the guideline as “not Guidelines compliant?” I suggest two results are likely, neither one helpful:

- 1) It would result in fewer plea agreements because some trial judges would reject more of them. Plea agreements, especially for large number drug-related offenses, benefit the public because they compel prompt drug treatment, rather than incarceration which by itself burdens taxpayers and doesn’t reduce recidivism. Community-based drug treatment permits individuals to keep their jobs and support networks, while incarceration destroys support networks.
- 2) Fewer plea agreements would mean more trials. More trial would mean greater A) longer delays before trial dates and B) higher costs to hire prosecutors and public defenders.

For all these reasons, I urge the Committee to give an unfavorable report to HB 1322.

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NOTE: Phil Caroom does not offer this testimony for the Md. Judiciary
