



Maryland Defenders Union
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March 9, 2023

Delegate Luke Clippinger, Chairman of the Judiciary Committee
Re: House Bill 1142

Dear Chairman Clippinger:

I am writing on behalf of the Maryland Defenders Union (MDU), AFSCME Local 423, in support of HB 1142, a bill which seeks to align Circuit Court violation of probation procedures with the procedures which already exist in District Court. Specifically, this bill seeks to align Circuit Court filing deadlines with those in the District Court.

In District Court, when a probationer is accused of violating his or her probation during the probationary period, the violation report must be filed during the probationary period or no more than 30 days after the expiration of the probationary period. (Criminal Procedure Article, Section 6-223 (b)). No such requirement exists in the Circuit Court. This means that people can complete their Circuit Court probation, and then face a violation months, or even years later. This creates undue hardship for our clients who believe they have satisfied the requirements of probation, only to find out later, via summons or even arrest, that the State is alleging they have not. It is easy to see the harmful effects of this practice, and there is no reason not to bring the Circuit Court rule in parity with District Court.

This bill creates consistency and clarity within the law. Nothing in this bill prevents the Court from continuing or postponing a violation of probation proceeding until other related proceedings have concluded (i.e. the resolution of a new charge). It only affects the timing of the *filing* of the original violation report. Under this proposed law, the Court may postpone the violation *hearing* as many times as necessary to wait for pending matters to be resolved. But the original violation report must be filed within 30 days of the expiration of the probation.

There are many ways in which a person can violate their probation. They can fail to complete treatment, change their address or leave the State without permission, have a positive drug test, or miss some of their probation appointments. Sometimes it can be something as minor as failing to pay probation fees or fines. It

is incredibly unfair if a violation can be brought against someone well after the expiration of probation, solely based on most of these allegations.

As for the probationers who are in violation of their probation because they were rearrested for a new charge during the period of probation, the Division of Parole and Probation (DPP) is immediately notified when a probationer is rearrested. Similarly, at that person's initial bail hearing within a day or two of arrest, the State is already aware that they are on probation. This bill creates no undue burden on the State by requiring they file in a timely manner. Even if a person were to be rearrested on their last day of probation, 30 days is plenty of time to file a violation, as both the State and DPP are already well aware of the new charge.

HB 1142 is about fairness. It negates disparate treatment of District and Circuit Court defendants, who can face entirely different procedures and consequences, even when they are charged with the same violation and/or underlying offense.

The Maryland Defenders Union urges this committee to pass a **favorable** report on HB 1142.

Respectfully,

A handwritten signature in black ink, appearing to read 'Marci Tarrant Johnson', with a stylized flourish at the end.

Marci Tarrant Johnson, Esq.
President, Maryland Defenders Union
AFSCME Council 3, Local 423