

Department of Legislative Services
Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE

House Bill 565
Judiciary

(Delegate Kramer, *et al.*)

Judicial Proceedings

Criminal Procedure - State Commission on Criminal Sentencing Policy -
Reconsideration of Sentence

This bill requires a judge or the judge's designee – within 30 days after ruling on a motion to revise, modify, or reduce the sentence imposed on a defendant for a crime of violence – to complete a Maryland sentencing guidelines worksheet for the case reflecting the ruling and submit the completed worksheet to the Maryland State Commission on Criminal Sentencing Policy (MSCCSP). The bill also requires the Administrative Office of the Courts to adopt regulations to implement the bill's provisions on or before January 1, 2010.

Fiscal Summary

State Effect: The bill's requirements can be handled with existing budgeted State resources.

Local Effect: The bill's requirements can be handled with existing budgeted local resources.

Small Business Effect: None.

Analysis

Current Law: Section 14-101 of the Criminal Law Article specifies offenses classified as crimes of violence and imposes mandatory sentences for repeat convictions of these offenses. The court may correct an illegal sentence at any time and has revisory power over a sentence in cases of fraud, mistake, or irregularity. In general, the court has revisory power over a sentence if a defendant files a motion within 90 days after

imposition of the sentence. However, the court may not increase the defendant's sentence and may not revise a sentence after the expiration of five years from the date the sentence was originally imposed on the defendant.

Background: Established in 1999, MSCCSP oversees sentencing policy and monitors the State's voluntary sentencing guidelines. The commission's primary responsibilities include collection and automation of sentencing guideline worksheets, and maintaining the sentencing guidelines database. The sentencing guidelines worksheet provides MSCCSP with sentencing guidelines data. Sentencing judges complete worksheets to determine the recommended sentencing guidelines outcome and to record sentencing data for offenses prosecuted in circuit courts. The guidelines are to be considered by a sentencing court in determining the appropriate sentence for a defendant who pleads guilty or *nolo contendere* to, or who was found guilty of, a crime in a circuit court.

MSCCSP is required to annually review sentencing policy and practice generally and, by December 1 of each year, report to the General Assembly on any changes made to the sentencing guidelines during the previous year. The commission also is required to report judicial compliance with the sentencing guidelines, listed by crime and by judicial circuit.

Chapter 559 of 2002 required MSCCSP to add the following information to its annual report: (1) a review of the reductions or increases in original sentences that occurred because of reconsiderations of sentences imposed under § 14-101 of the Criminal Law Article; and (2) a categorization of these reconsiderations by offense and judicial circuit. In response to Chapter 559, MSCCSP revised the sentencing guidelines worksheet to capture information on reconsidered sentences. While MSCCSP is required to provide information about reconsidered sentences in its annual report, judges are not statutorily required to report information concerning reconsidered sentences to the commission.

In its 2008 annual report, MSCCSP stated that since the time the commission started collecting information on reconsidered sentences "worksheets for these cases have been underreported to the MSCCSP, preventing a complete analysis of the impact." In fiscal 2008, MSCCSP received information on reconsidered sentences for 13 offenders and 20 offenses. MSCCSP received 11,658 worksheets for offenders *sentenced* in circuit courts during that same time period.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Commission on Criminal Sentencing Policy, Judiciary (Administrative Office of the Courts), Office of the Public Defender, Department of Public Safety and Correctional Services, State's Attorneys' Association, Department of Legislative Services

Fiscal Note History: First Reader - March 8, 2009
ncs/kdm

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