

Department of Legislative Services
 Maryland General Assembly
 2022 Session

FISCAL AND POLICY NOTE
 Third Reader - Revised

Senate Bill 392

(The President, *et al.*) (By Request - Administration)

Judicial Proceedings

Judiciary

State Commission on Criminal Sentencing Policy - Annual Report and Data
 Dashboard (The Judicial Transparency Act of 2022)

This Administration bill requires the Maryland State Commission on Criminal Sentencing Policy (MSCCSP) to include in its annual report specified information for sentences involving a “crime of violence” under § 14-101 of the Criminal Law Article. MSCCSP must also conspicuously post this information in a data dashboard on its public website.

Fiscal Summary

State Effect: General fund expenditures increase by \$115,700 in FY 2023. Future years reflect annualization, inflation, and ongoing expenditures. Revenues are not affected.

(in dollars)	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	115,700	117,500	120,600	123,500	126,500
Net Effect	(\$115,700)	(\$117,500)	(\$120,600)	(\$123,500)	(\$126,500)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

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

Small Business Effect: The Administration has determined that this bill has minimal or no impact on small business (attached). The Department of Legislative Services concurs with this assessment. (The attached assessment does not reflect amendments to the bill.)

Analysis

Bill Summary: MSCCSP must include in its annual report the following information for sentences involving a crime of violence, disaggregated by county:

- the number and percentage of sentencing events in each disposition category, as indicated on the sentencing guidelines worksheet;
- the number and percentage of sentencing events that resulted in a departure from the sentencing guidelines; and
- for sentencing events that resulted in a departure from the sentencing guidelines, the departure reasons cited and the number and percentage of events in which each reason was cited.

MSCCSP must also include in its annual report the following information for sentencing events involving a crime of violence, disaggregated by county and crime:

- the average total sentence;
- the average nonsuspended sentence; and
- for sentences in which a portion of the sentence was suspended, the average percentage of the total sentence suspended.

The bill also requires MSCCSP to (1) report the information listed above by circuit for the first, second, and fourth judicial circuits and (2) conspicuously post the information listed above in a data dashboard on its public website.

Current Law/Background: The surge in violent crime in Baltimore City has been the subject of extensive discussion and media coverage in recent years. Since 2015, there have been more than 300 homicides each year in Baltimore City. In January 2022, there were 36 homicides in Baltimore City, making it the deadliest January in the city in approximately 50 years. This bill is part of the Governor’s legislative package to address violent crime.

Maryland State Commission on Criminal Sentencing Policy

Sentencing Guidelines: MSCCSP was created to oversee sentencing policy in Maryland and is primarily responsible for maintaining and monitoring the State’s *voluntary* sentencing guidelines, which are intended to promote fair and proportional sentencing while eliminating sentencing disparity. The guidelines apply to most circuit court cases.

MSCCSP is responsible for the adoption of sentencing guidelines to be considered by courts when determining the appropriate sentence for a criminal defendant, as well as the collection and automation of sentencing guidelines data. The sentencing guidelines are

advisory, and judges may, at their discretion, impose a sentence outside the guidelines. However, judges are asked to document the reasons for sentencing outside of the guidelines.

Annual Report: MSCCSP is required to conduct an annual review of sentencing policy and practice and submit a report to the General Assembly by January 31 of each year. The report must (1) include any changes to the sentencing guidelines made during the preceding year; (2) review judicial compliance with the sentencing guidelines, including compliance by crime and by judicial circuit; (3) review reductions or increases in original sentences that have occurred because of reconsiderations of mandatory sentences for crimes of violence; and (4) categorize information on these reconsiderations of sentences by offense and by judicial circuit.

Crime of Violence

Section 14-101(a) of the Criminal Law Article defines a “crime of violence” as (1) abduction; (2) arson in the first degree; (3) kidnapping; (4) manslaughter, except involuntary manslaughter; (5) mayhem; (6) maiming; (7) murder; (8) rape; (9) robbery; (10) carjacking (including armed carjacking); (11) first- and second-degree sexual offenses; (12) use of a firearm in the commission of a felony or other crime of violence, except possession with intent to distribute a controlled dangerous substance; (13) child abuse in the first degree; (14) sexual abuse of a minor younger than age 13 under specified circumstances; (15) home invasion; (16) felony sex trafficking and forced marriage; (17) an attempt to commit crimes (1) through (16); (18) continuing course of certain sexual conduct with a child; (19) assault in the first degree; and (20) assault with intent to murder, rape, rob, or commit a sexual offense in the first or second degree.

MSCCSP advises that based on a review of the Maryland Sentencing Guidelines Database, the commission received information for 2,756 counts and 1,788 individuals sentenced for a crime of violence under § 14-101 of the Criminal Law Article in the State’s circuit courts during fiscal 2019 (the most recent fiscal year not affected by the COVID-19 pandemic).

State Expenditures: MSCCSP advises that given current staff workloads, an additional full-time employee is needed for the commission to meet the projected additional workload under the bill. The additional responsibilities include data management and data analysis for approximately 2,700 crime of violence convictions each year; preparation of additional content for the annual report; and maintenance of a data dashboard. Accordingly, general fund expenditures increase by \$115,665 in fiscal 2023, which accounts for the bill’s October 1, 2022 effective date. This estimate reflects the cost of hiring one research analyst/database manager to assist MSCCSP in meeting its expanded responsibilities under the bill, one-time computer programming costs, and ongoing expenditures related to data

hosting and software. It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Position	1.0
Salary and Fringe Benefits	\$81,762
One-time Computer Programming	17,500
Data Hosting Services and Software	9,060
Operating Expenses	<u>7,343</u>
Total FY 2023 State Expenditures	\$115,665

Future year expenditures reflect a full salary with annual increases and employee turnover as well as annual increases in ongoing operating expenses.

Additional Information

Prior Introductions: None.

Designated Cross File: HB 412 (The Speaker, *et al.*) (By Request - Administration) - Judiciary.

Information Source(s): Charles, Frederick, Montgomery, and Somerset counties; Maryland State Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Office of the Public Defender; Maryland State's Attorneys' Association; Department of Public Safety and Correctional Services; *Baltimore Sun*; Department of Legislative Services

Fiscal Note History: First Reader - February 6, 2022
fnu2/jkb Third Reader - March 17, 2022
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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: State Commission on Criminal Sentencing Policy – Annual Report and Data Dashboard (The Judicial Transparency Act of 2022)

BILL NUMBER: SB392

PREPARED BY: Governor's Legislative Office

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS