

Department of Legislative Services
Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE

Senate Bill 793 (Senator Kelley, *et al.*)
Judicial Proceedings

Task Force to Study the Use of Private Diversion Programs

This bill establishes the Task Force to Study the Use of Private Diversion Programs. The bill specifies the membership of the task force and requires the Governor to appoint members to the task force. The chairperson is designated by the Governor. The Consumer Protection Division of the Office of the Attorney General must provide staff support for the task force. An interim report and a final report with findings and recommendations are due by December 1, 2013, and October 1, 2014, respectively, to the Governor and the General Assembly.

The bill takes effect July 1, 2013, and terminates June 30, 2015.

Fiscal Summary

State Effect: Any expense reimbursements for task force members and staffing costs for the Consumer Protection Division are assumed to be minimal and absorbable within existing budgeted resources.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: The task force must study the laws governing, practices involving and effects of the use of for-profit companies operating private diversion programs for persons who have allegedly passed bad checks or committed other minor offenses.

For any such program operating in Maryland, the task force must also consider:

- the rules, guidelines, policies, or practices relating to the private diversion program;
- the procedures or remedies available to individuals who believe they have been wrongfully required or asked to participate in a private diversion program;
- the policies for investigating potential violations of State criminal laws before requiring or asking any person to participate in a private diversion program;
- who determines whether there is probable cause to believe that a violation of State criminal laws has occurred before persons are required or asked to participate in a private diversion program and how these probable cause determinations are made;
- the policies, procedures, or practices intended to monitor and reduce the occurrence of error in the identification of individuals required or asked to participate in a private diversion program;
- the ethics of use of private prosecution programs by State's Attorneys;
- the scope, efficacy, and availability of private diversion programs; and
- best practices and lessons learned from other states.

Task force members may not receive compensation but are entitled to reimbursement for expenses under the standard State travel regulations, as provided in the State budget.

Current Law/Background: No State statute pertains to a private diversion program. A private diversion program or a private prosecution program is typically an agreement between a debt collection agency and a prosecutor. The debt collection agency sends a letter, possibly under the letterhead of the prosecutor, to people who have written bad checks threatening criminal action if the debt is not settled. If the debt is settled, the prosecutor's office receives a portion of the debt repayment.

These types of programs occur in many states, including Maryland. A company named CorrectiveSolutions has agreements with State's Attorney offices in 12 counties in the State. According to the Baltimore County State's Attorney, the office has received approximately \$40,000 during the past two years, and any money received is donated to charity. The American Civil Liberties Union of Maryland recently wrote to the State's Attorney offices in these 12 counties with concerns about the arrangement.

Additional Information

Prior Introductions: None.

Cross File: HB 1018 (Delegate Hucker) - Judiciary.

Information Source(s): Office of the Attorney General (Consumer Protection Division), *Maryland Daily Record*, *The New York Times*, Department of Legislative Services

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