

Department of Legislative Services  
Maryland General Assembly  
2014 Session

FISCAL AND POLICY NOTE  
Revised

House Bill 1232

(Delegate Dumais, *et al.*)

Judiciary

Judicial Proceedings

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Criminal Procedure - Task Force on Pretrial Risk Assessment - Detainee  
Electronic Information Sharing System

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This bill (1) requires the Secretary of Public Safety and Correctional Services (the Secretary) to establish and maintain an electronic information sharing system meeting specified requirements and to adopt regulations to implement the system; (2) establishes the Task Force on Pretrial Risk Assessment; (3) specifies the composition, chair, and staffing of the task force; (4) establishes the duties of the task force, including recommendation of a validated pretrial risk assessment tool and conducting a statistical study of the recommended tool; (5) requires the task force to submit initial, interim, and final reports by specified dates; (6) requires the Office of Legislative Audits (OLA) to conduct a performance audit meeting specified criteria; and (7) requires the Secretary to establish, no later than July 1, 2016, a pilot program in Baltimore City and one rural county that requires judicial officers in those jurisdictions to utilize the validated risk assessment tool recommended by the task force in determining pretrial release eligibility of individuals arrested in those jurisdictions brought before a judicial officer.

While the bill generally takes effect June 1, 2014, some provisions are subject to different effective dates. The provisions pertaining to the task force and the pilot program terminate June 30, 2017.

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**Fiscal Summary**

**State Effect:** General fund expenditures increase by \$2.6 million in FY 2015 for the Department of Public Safety and Correctional Services (DPSCS) to implement the electronic sharing system required under the bill and to employ a consultant to assist with task force duties. OLA can conduct a performance audit with existing resources.

(in dollars)	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	2,586,000	-	-	0	0
Net Effect	(\$2,586,000)	\$0	\$0	\$0	\$0

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

**Local Effect:** None.

**Small Business Effect:** Minimal. The bill is not expected to materially affect small businesses.

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## Analysis

### Bill Summary:

#### *Electronic Information Sharing System*

The Secretary of Public Safety and Correctional Services must maintain an electronic information sharing system that contains information on each detainee who is or who has been confined in a State or local correctional facility. The Secretary must adopt regulations to implement the requirement, including regulations specifying (1) the information to be collected; (2) procedures for protecting the confidentiality of information in the system; (3) the permissible use of information compiled by the system; and (4) standards for maintaining security and reliability of collected information in the system.

#### *Task Force on Pretrial Risk Assessment*

The bill establishes the Task Force on Pretrial Risk Assessment, specifies membership of the task force, requires the task force to elect a chair from its membership, and requires DPSCS to staff the task force. 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. The task force may hire or consult experts or other individuals or organizations as necessary to assist the task force in carrying out its duties under the bill. The task force is also authorized to seek and obtain funding from any governmental or nongovernmental source to carry out its duties under the bill.

The task force must:

- study the feasibility and appropriateness of adopting a pretrial risk assessment tool for use by judicial officers in an advisory capacity only;

- consult and coordinate with other states and national organizations to provide guidance regarding nationally established standards relating to pretrial risk assessment tools;
- review the methodologies and procedures necessary to use an objective and research-based pretrial risk assessment tool in order to make recommendations for implementation of an initial statistical study and possible subsequent use of such a tool in other jurisdictions as authorized by the task force;
- consult and coordinate with other units of the State and local jurisdictions concerning pretrial risk assessment tools;
- recommend a validated pretrial risk assessment tool that (1) can be proven through research to predict risk of failure to appear and danger to the community pending trial; (2) can equitably classify defendants regardless of their race, ethnicity, gender, or financial status; and (3) can be adapted to Maryland criminal statutes;
- conduct a statistical study of the validated pretrial risk assessment tool on a dataset collected from a sample of defendants arrested over a specified period of time in Baltimore City and a rural county for the purpose of providing a comparison of the assessments made by the jurisdictions' existing system and the selected pretrial risk assessment tool;
- study the feasibility and appropriateness of revising current pretrial release programs, including (1) expanding categories of offenses for which either a citation or summons may be issued in lieu of arrest; (2) implementing procedures for a validated pretrial risk assessment tool for use in making uniform pretrial release decisions with respect to persons arrested; and (3) determining whether such a tool has been proven sufficient to inform release decisions by judicial officers and, if not, what additional investigation or information may be appropriate to consider;
- advise on the appropriate use and administration of the pretrial risk assessment tool;
- advise on any constitutional concerns regarding the use and administration of the pretrial risk assessment tool; and
- advise on which branch or branches of government are most appropriate to administer the pretrial risk assessment tool.

The task force is required to submit an initial, interim, and final report of its findings to the Governor and the General Assembly. The initial report is due by December 31, 2014, the interim report is due by December 31, 2015, and the final report is due by December 31, 2016.

### *Performance Audit*

OLA must conduct a performance audit by December 31, 2015, to evaluate the results of the validated risk assessment tool statistical study or subsequent implementation in other jurisdictions.

The audit must:

- assess whether the methodology and related policies and procedures implemented in conjunction with the statistical study were appropriate and consistent with guidance obtained by the task force from national organizations, other states, and other units of the State and local jurisdictions concerning pretrial risk assessment tools;
- assess the processes and controls in place during the study, including the reliability of the data collected and used; and
- evaluate the reasonableness of the study's conclusions, including a comparison of the assessment results from the existing systems to those of the tool during the pilot program.

The scope and objectives of the audit may be modified with the approval of the Joint Audit Committee.

### *Pilot Program*

By July 1, 2016, the Secretary of Public Safety and Correctional Services, in conjunction with the task force, must establish a Pretrial Risk Assessment Tool Pilot Program in Baltimore City and one rural county that requires judicial officers in those jurisdictions to utilize the validated risk assessment tool recommended by the task force in determining eligibility for the pretrial release of arrested individuals brought before a judicial officer.

**State Expenditures:** General fund expenditures increase by \$2,586,000 in fiscal 2015. Implementation of an electronic information sharing system as required under the bill results in an increase in general fund expenditures of \$2,386,000 in fiscal 2015. This estimate assumes that personnel needs related to implementation of the system can be accommodated with existing DPSCS personnel. In addition, given the scope of the task force's duties and analysis, general fund expenditures increase by approximately \$200,000 to employ a consultant to assist with task force duties. The estimated impact on the general fund may be reduced to the extent that non-State funding is obtained to assist with the expense associated with the task force's duties.

DPSCS may incur additional expenditures for the pilot program, which depend on the scope of the program, the tool selected by the task force and the Secretary, and associated

procurement and implementation costs. Any cost for the pilot program cannot be reliably estimated at this time. OLA can handle the bill's requirements with existing budgeted resources.

**Additional Comments:** DPSCS advises that it is not clear to what extent the information sharing system described under the bill differs from its current Offender Case Management System (OCMS). Currently, local detention centers are not linked together and do not have shared access to each other's records or OCMS.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** SB 973 (Senator Frosh) - Judicial Proceedings.

**Information Source(s):** Department of Public Safety and Correctional Services, Governor's Office of Crime Control and Prevention, Department of State Police, Office of the Public Defender, Judiciary (Administrative Office of the Courts), Maryland Association of Counties, Montgomery County, *State Legislature Magazine* – National Conference of State Legislatures, Department of Legislative Services

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