

Department of Legislative Services
Maryland General Assembly
2015 Session

FISCAL AND POLICY NOTE
Revised

House Bill 615
Judiciary

(Delegate Moon, *et al.*)

Judicial Proceedings

Parole and Probation - Sanctioning Prohibited - Citation

This bill prohibits a person from being sanctioned for a violation of a condition of probation or parole for the sole reason that the person received a citation for the commission of a nonjailable civil offense. The bill does not apply to an offender who is on probation or parole for a violation of the prohibition on driving while under the influence of alcohol or drugs or consuming alcoholic beverages while driving on a highway.

Fiscal Summary

State Effect: The bill is not expected to significantly affect the operations or finances of the Division of Parole and Probation (DPP) or the Maryland Parole Commission (MPC). Generally, neither DPP nor MPC track nonjailable civil offenses committed by persons under supervision. Accordingly, the bill should not affect caseloads of DPP or revocation hearings for MPC.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law/Background: DPP agents and monitors are notified of offender arrests on a daily basis via automated data processes maintained through the Information Technology and Communications Division of the Department of Public Safety and Correctional Services. However, although a supervisee may self-report the receipt of a nonjailable civil citation, there is no automated notification for civil citations that have been issued to offenders. If an agent or monitor learns that a civil citation was issued to an offender during

the course of supervision, the agent or monitor may report the matter to the court or MPC for informational purposes and for whatever action the court or MPC deems necessary. A revocation of parole or probation does not typically result solely from a reported civil citation.

Chapter 158 of 2014 made the possession of less than 10 grams of marijuana a civil offense punishable by a fine of up to \$100 for a first offense and \$250 for a second offense. The maximum fine for a third or subsequent offense is \$500. If a person commits a third or subsequent violation, or is younger than age 21, the court must summon the person for trial upon issuance of a citation. Additionally, the court must order a person who (1) commits a third or subsequent violation or (2) is younger than age 21 and commits a violation, to attend an approved drug education program and refer the person to an assessment for a substance abuse disorder. After the assessment, the court must refer the person to substance abuse treatment, if necessary.

By regulation, the general conditions for every parole includes a statement that the person obey all laws and not illegally possess, use, or sell any narcotic drug, controlled dangerous substance, or related paraphernalia. In addition to the general conditions, MPC, in its discretion, may impose special conditions as deemed appropriate to the individual. MPC may, from time to time, in its discretion, and upon good cause shown, change or modify the conditions of an individual's parole. In case of modification, the parolee must be given opportunity to show cause why a condition should not be changed, added, or modified. The person may request a hearing before not less than two commissioners before the modification, change, or addition.

Current regulations give parole agents discretion in applying for a retake warrant. Agents may submit a report providing a summary of the offender's background, supervision adjustment and the facts about the violation, supplemented by police and court records where applicable, together with a recommendation regarding the action to be taken by MPC. MPC reviews the report and in its discretion takes the appropriate action, which may include a revocation.

MPC advises that it typically applies the least punitive sanction to encourage compliance.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland State Commission on Criminal Sentencing Policy, Judiciary (Administrative Office of the Courts), Department of Public Safety and Correctional Services, Department of Health and Mental Hygiene, Department of Legislative Services

Fiscal Note History: First Reader - February 20, 2015
mar/lgc Revised - House Third Reader - April 1, 2015

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