

Department of Legislative Services
Maryland General Assembly
2020 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 82
Judiciary

(Delegate Moon, *et al.*)

Judicial Proceedings

Public Safety – Pretrial Services Program Grant Fund – Extension and Program Requirements

This bill prohibits a pretrial services program that receives a grant from the Pretrial Services Program Grant Fund from charging a fee to any defendant for participation in the program. The bill also extends, from June 30, 2023, to June 30, 2028, the termination date of the Pretrial Services Program Grant Fund within the Governor’s Office of Crime Prevention, Youth, and Victim Services (GOVS).

Fiscal Summary

State Effect: GOVS can continue to administer the grant fund beyond FY 2023 with existing staff. The FY 2021 budget includes language restricting \$750,000 of the general fund appropriation for the Administrative Office of the Courts (AOC) for the purpose of being transferred to GOVS to be used for the grant fund.

Local Effect: Potential decrease in local revenues from pretrial services program participation fees that would otherwise be collected, as discussed below. Grant revenues and expenditures continue – to the extent grant funding is otherwise available – in the out-years due to the extension of the grant fund beyond FY 2023.

Small Business Effect: None.

Analysis

Current Law/Background:

Pretrial Services Program Grant Fund

Chapter 771 of 2018 established the Pretrial Services Program Grant Fund to provide grants to eligible counties to establish pretrial services programs or to improve existing pretrial services programs to comply with specified requirements. An eligible county is (1) a county that does not provide defendants with pretrial services or (2) a county that does provide defendants with pretrial services, but seeks to improve the services to comply with specified requirements for grant recipients.

A pretrial services program established or improved using a grant from the fund must (1) use a validated, evidence-based, and race-neutral risk scoring instrument that is consistent with the Maryland Rules to make pretrial release-related recommendations to a judicial officer; (2) apply best practices shown to be effective in other jurisdictions; and (3) incorporate multiple levels of supervision based on defendant risk scores with features that include specified items, including cellular telephone reminders of a defendant's hearing date and drug and alcohol testing. Grant funds must be used to supplement and not supplant any other funding for the establishment or improvement of a pretrial services program. The Governor's Office of Crime Prevention, Youth, and Victim Services (GOVS) administers the fund. (Chapter 11 of 2020 renamed the Governor's Office of Crime Control and Prevention (GOCCP) to be GOVS.)

The fiscal 2019 budget included \$1.0 million in general funds for GOCCP to provide grants, technical assistance, and other support to local governments for the establishment, expansion, and improvement of pretrial services agencies. However, no additional funding was provided for these grants in fiscal 2020, and Chapter 771 terminates June 30, 2023. The fiscal 2021 budget does, however, restrict \$750,000 of the general fund appropriation for AOC for the purpose of being transferred by budget amendment to GOVS to be used for the Pretrial Services Program Grant Fund. Funds not expended for this restricted purpose revert to the general fund.

Pretrial Services Programs

As shown in **Exhibit 1**, based on information received by the Department of Legislative Services, as of January 2020, 19 jurisdictions in the State have a pretrial services program. The programs vary in scope and services offered. Several of the programs use a pretrial risk scoring instrument. Two counties do not have a pretrial services program, but did receive grant funding from GOCCP and may be in the process of establishing a program. For example, Howard County advises that its program will likely begin in April 2020.

Exhibit 1
Jurisdictions with Pretrial Services Programs

Jurisdictions with Pretrial Services

Anne Arundel County*
Baltimore City^
Baltimore County
Calvert County*
Caroline County
Cecil County*
Carroll County
Dorchester County*
Frederick County
Harford County
Kent County
Montgomery County*
Prince George's County*
Queen Anne's County
St. Mary's County*
Somerset County*
Talbot County
Wicomico County*
Worcester County

Jurisdictions without Pretrial Services

Allegany County
Charles County
Garrett County
Howard County*
Washington County*

*Received a Pretrial Services Program Grant from GOCCP.

^Operated by the Department of Public Safety and Correctional Services.

Source: Governor's Office of Crime Prevention, Youth, and Victim Services; Department of Legislative Services

State Fiscal Effect: GOVS can continue to administer the Pretrial Services Program Grant Fund with existing staff. Although the Department of Public Safety and Correctional Services (DPSCS) operates the pretrial services program in Baltimore City, as a State agency, DPSCS is ineligible for a grant from the fund.

As noted above, while funding was provided for the grant fund in fiscal 2019, no additional funding was provided in fiscal 2020. However, the fiscal 2021 budget restricts \$750,000 of the general fund appropriation for AOC for the purpose of being transferred by budget amendment to GOVS to be used for the Pretrial Services Program Grant Fund. Accordingly, if the Governor releases those funds, an additional \$750,000 will be available

in fiscal 2021 for the grant fund. The bill extends the termination date of the grant fund beyond fiscal 2023; to the extent funding is otherwise provided for the grant fund, grant funding may continue beyond fiscal 2023.

Local Revenues: Local revenues may decrease due to the bill's prohibition on the imposition of participation fees by a recipient of a grant from the Pretrial Services Program Grant Fund.

Many grant recipient counties do not charge fees for participation in pretrial services programs. For instance, Anne Arundel and Prince George's counties advise that they do not charge any fees to pretrial defendants. Montgomery and St. Mary's counties have historically advised that they do not charge fees for pretrial services. However, Howard County plans to charge weekly fees of \$10 for general supervision and \$15 for GPS supervision when its program commences operation in April 2020. The county's program will have a maximum capacity of 50 participants (30 on GPS and 20 on regular supervision), and the county estimates that 200 individuals will participate in the program each year. While information is not readily available on Calvert County's current policy, the county collected \$2,436 in fees from pretrial defendants during fiscal 2017.

Grants from the fund appear to be one-time grants, not multi-year grants. The 11 awards announced in December 2018 ranged from \$29,250 to \$165,546. If the bill is interpreted as prohibiting the imposition of participation fees so long as the county is spending grant funds (and not in perpetuity), then the bill may only have a temporary impact on applicable counties.

Grant revenues and expenditures continue – to the extent grant funding is otherwise provided – in the out years due to the extension of the grant fund beyond fiscal 2023.

Additional Information

Prior Introductions: None.

Designated Cross File: SB 679 (Senator Washington) - Judicial Proceedings.

Information Source(s): Calvert, Caroline, Carroll, Frederick, Howard, Montgomery, Prince George's, and St. Mary's counties; Maryland Association of Counties; Judiciary (Administrative Office of the Courts); wired.com; *Advancing Bail Reform in Maryland: Progress and Possibilities* (Princeton University School of Public Affairs, prepared for the Baltimore City and Prince George's County branches of the NAACP); Department of Legislative Services

Fiscal Note History:
rh/jkb

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