

Department of Legislative Services
Maryland General Assembly
2020 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1327
Judiciary

(Delegate Bartlett)

Courts - Grand Jury Proceedings - Recordings and Transcripts

This bill requires all grand jury proceedings, other than deliberation and voting sessions, to be recorded and transcribed. On written motion and after a hearing, a circuit court for a county may issue a written order requiring an audio or video recording or a transcript of a grand jury proceeding to be released to the public, if the court finds that the release serves an important public interest.

Fiscal Summary

State Effect: The bill is not anticipated to materially affect the workload or finances of the Judiciary, as discussed below.

Local Effect: Circuit court expenditures increase, potentially significantly in some jurisdictions, to record and transcribe grand jury proceedings. **This bill may impose a mandate on a unit of local government.**

Small Business Effect: Minimal.

Analysis

Bill Summary/Current Law: Under current law, a State's Attorney may seek to have an individual charged by grand jury indictment when the charge is a felony. A grand jury may subpoena evidence and witnesses that may be difficult for a law enforcement agency or the State's Attorney to obtain through regular investigation. All witnesses must testify under oath without an attorney present, and the proceedings are confidential. The frequency of grand jury proceedings varies by jurisdiction.

Under current law, a court reporter ordered to take testimony given before a grand jury must take and transcribe the testimony. A court reporter must provide, as requested, a transcript of testimony given before a grand jury to the grand jury and the State's Attorney. The bill extends these provisions to all proceedings of the grand jury and audio or video recordings. The bill also requires a court reporter to provide, as requested, an audio or video recording or a transcript to the defendant and the defense counsel.

Current law requires that each transcript of testimony given must be kept in the custody of the State's Attorney. The bill extends this provision to audio or video recordings of all grand jury proceedings.

Under current law, unless the circuit court orders otherwise, as specified, the transcript (including the original and any copies) may not be taken from the office of the State's Attorney other than for use by the grand jury or for production in court. On written order of the circuit court and on written motion of the State's Attorney, the State's Attorney may have the notes as to, and transcript of, the grand jury testimony destroyed. Except on written order of the circuit court, with input from the State's Attorney, a record of testimony is for the exclusive use and benefit of the grand jury and the State's Attorney. The bill repeals these provisions.

Under current law, a court reporter may not allow any other governmental unit or person to read or have a copy of the record or disclose wholly or partly the character of the contents. The bill specifies that any person in possession of a grand jury audio or video recording or transcript may not take these actions.

State/Local Fiscal Effect: The Judiciary advises that recording and transcribing all grand jury proceedings entails substantial expenditures for the party responsible for associated costs. Because grand juries are exclusively used in the circuit courts and the salaries of court reporters (for the counties that use them) are paid for by local governments, for purposes of this fiscal and policy note, it is assumed that circuit courts (local governments) are responsible for associated expenditures and not the Judiciary. The specific impact on local jurisdictions varies widely and depends on how often grand juries are convened and whether the circuit court already has recording capabilities. For example, according to information provided by the Judiciary, Worcester County estimates implementation costs of \$25,000 to install the necessary recording equipment and ongoing costs of approximately \$12,000 annually. Anne Arundel County anticipates expenditures of up to \$56,200 annually to transcribe all grand jury proceedings. Howard County estimates expenditures of approximately \$8,700 annually; Somerset County estimates \$3,000.

Baltimore City and Montgomery County do not anticipate a significant fiscal impact.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Baltimore City; Montgomery County; Judiciary (Administrative Office of the Courts); Office of the Public Defender; Maryland State's Attorneys' Association; Department of Legislative Services

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rh/lgc

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