

Department of Legislative Services
Maryland General Assembly
2021 Session

FISCAL AND POLICY NOTE
Third Reader

House Bill 126
Judiciary

(Delegate Moon)

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 (GOCPYVS).

Fiscal Summary

State Effect: GOCPYVS can continue to administer the grant fund beyond FY 2023 with existing staff. *If* funding is provided beyond FY 2023, general fund expenditures continue; special fund revenues and expenditures continue correspondingly.

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:

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. GOCPYVS administers the fund. Chapter 771 terminates June 30, 2023.

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. Pursuant to Chapter 41 of 2020, effective July 1, 2021, a jurisdiction that uses a "pretrial risk scoring instrument" to determine the eligibility of a defendant for pretrial release must have an independent validation study of the instrument conducted at least once every five years. Chapter 41 also adds the independent validation of a pretrial risk scoring tool as an authorized purpose for grants from the Pretrial Services Program Grant Fund. Grant funds must be used to supplement and not supplant any other funding for the establishment or improvement of a pretrial services program.

State Fiscal Effect: The bill extends the termination date of the grant fund; to the extent additional funding is provided, grant funding continues beyond fiscal 2023. However, the extension of the termination date does not guarantee funding in future years, and funding for the program has been inconsistent since implementation. The fiscal 2019 budget included \$1.0 million in general funds for GOCPYVS 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 the following year, and the Pretrial Services Program Grant Fund ended fiscal 2020 with a fund balance of approximately \$75,000. The fiscal 2021 budget restricts \$750,000 of the general fund appropriation for the Administrative Office of the Courts for the purpose of being transferred by budget amendment to GOCPYVS to be used for the Pretrial Services Program Grant Fund. However, as of the date of this fiscal and policy note, the funds have

not been transferred. If those funds are transferred, additional funding will be available in fiscal 2021 for the grant fund; otherwise, the restricted funds revert to the general fund.

GOCPYVS 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.

Local Fiscal Effect: Based on information received by the Department of Legislative Services, as of January 2021, all but four jurisdictions in the State (Allegany, Charles, Garrett, and Howard counties) currently operate pretrial services programs. The programs vary in scope and services offered.

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 counties do not charge fees for participation in pretrial services programs. For instance, Anne Arundel, Montgomery, and Prince George's counties advise that they do not charge any fees to pretrial defendants. St. Mary's County has historically advised that it does not charge fees for pretrial services. Baltimore County advises that a prohibition on pretrial services fees would result in a minor and immaterial decrease in county revenues. Harford County advises that the bill does not affect county finances.

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.

Local 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: HB 82 of 2020, as amended, passed the House and was referred to the Senate Judicial Proceedings Committee, but no further action was taken. Its cross file, SB 679, a similar bill, received a hearing in the Senate Judicial Proceedings Committee, but no further action was taken.

Designated Cross File: SB 229 (Senators Waldstreicher and Carter) - Judicial Proceedings.

Information Source(s): Allegany, Anne Arundel, Baltimore, Charles, Garrett, Harford, Howard, Montgomery, Prince George's, and Wicomico counties; Maryland Association of Counties; Baltimore City; Governor's Office of Crime Prevention, Youth, and Victim Services; Judiciary (Administrative Office of the Courts); Department of Legislative Services

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