

Department of Legislative Services
 Maryland General Assembly
 2022 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 585

(Senator McCray, *et al.*)

Judicial Proceedings and Budget and Taxation

Judiciary

Public Safety - Warrants and Absconding

This bill requires the Governor, for fiscal 2024 through 2026, to include each year in the annual budget bill an appropriation of \$2.0 million for local law enforcement agencies to be used as grants for warrant apprehension efforts. The Governor’s Office of Crime Prevention, Youth, and Victim Services (GOCPYVS) must administer the grant funds. An eligible local law enforcement agency that receives a grant pursuant to the bill must submit, for each fiscal year, specified information to the Executive Director of GOCPYVS. The bill also modifies the definition of “absconding” as it relates to parole and probation. **The bill’s provisions relating to grants for warrant apprehension efforts take effect July 1, 2022, and terminate December 31, 2026.**

Fiscal Summary

State Effect: General fund expenditures for GOCPYVS increase by \$25,000 in FY 2023, by approximately \$2.0 million annually from FY 2024 through 2026, and by \$12,600 in FY 2027. Other potential minimal effects are discussed below. Revenues are not affected.

This bill establishes a mandated appropriation from FY 2024 through 2026.

(in dollars)	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	25,000	2,022,800	2,023,600	2,024,400	12,600
Net Effect	(\$25,000)	(\$2,022,800)	(\$2,023,600)	(\$2,024,400)	(\$12,600)

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

Local Effect: Local government grant revenues increase in total by \$2.0 million annually from FY 2024 through 2026 as a result of the mandated appropriation; expenditures increase correspondingly for the specified purposes. The change in the definition of absconding may result in a minimal increase in expenditures for the circuit courts and a minimal increase in incarceration expenditures.

Small Business Effect: None.

Analysis

Bill Summary:

Mandated Funding to Provide Grants for Warrant Apprehension Efforts

The funds required to be included in the annual State budget bill must be used solely to supplement, and not supplant, funds otherwise available to local law enforcement agencies for warrant apprehension efforts.

Local law enforcement agencies may use the grant funds (1) to reduce warrants in the agency's jurisdiction; (2) to increase coordination and cooperation between local law enforcement and State and federal agencies regarding outstanding warrants; and (3) to reduce the number of outstanding warrants related to violent crimes.

An eligible local law enforcement agency that receives a grant must submit, for each fiscal year, to the Executive Director of GOCPYVS (1) proof of the expenditure of the grant funds and the purposes for which the funds were expended; (2) total warrants in each county by type of warrant and related offense; (3) total number of warrants reduced and suspects apprehended, delineated by offense; and (4) any related outcome-based performance measures, as specified.

“Local law enforcement agency” means (1) a police department of a county or municipal corporation in the State or (2) the office of the sheriff that provides a law enforcement function in a county or municipal corporation in the State.

Definition of Absconding

The bill modifies the definition of absconding to include leaving an inpatient residential treatment facility that an individual was placed in pursuant to a court order for drug or alcohol treatment without the permission of the administrator.

Current Law:

Absconding: Under § 6-219 of the Criminal Procedure Article, a court may impose custodial confinement or imprisonment as a condition of probation before or after judgment. “Custodial confinement” means home detention, a corrections options program meeting specified criteria, or inpatient drug or alcohol treatment.

Under § 8-507 of the Health-General Article, a court is authorized to refer an individual to substance abuse treatment as an alternative to incarceration. A court that finds in a criminal

case that a defendant has an alcohol or drug dependency may commit the defendant to the Maryland Department of Health (MDH) for a drug or alcohol treatment program.

When a defendant is committed to a treatment facility pursuant to § 8-507 of the Health-General Article, the court must order supervision of the defendant by (1) the appropriate pretrial release agency, if the defendant is released pending trial; (2) the Division of Parole and Probation (DPP), if the defendant is released on probation; or (3) MDH, if the defendant remains in the custody of a local correctional facility. If a defendant leaves treatment without authorization, MDH's responsibility is limited to the notification of the court that ordered the defendant's treatment as soon as is reasonably possible.

Pursuant to Chapter 515 of 2016, commonly referred to as the Justice Reinvestment Act, the Department of Public Safety and Correctional Services (DPSCS) established a program of "graduated sanctions" in response to technical violations of conditions of parole or probation supervision. DPP must provide notice to the court and the Maryland Parole Commission (MPC) regarding a technical violation and any graduated sanctions imposed as a result. The court and MPC may impose specified maximum sentences for a revocation of parole or probation due to a "technical violation" (1) for a first violation, not more than 15 days; (2) for a second violation, not more than 30 days; and (3) for a third violation, not more than 45 days. However, the court and MPC may depart from the limits if adhering to the limits would create a risk to public safety or to a victim or witness. For nontechnical violations, the court or MPC may impose any portion of the remaining suspended sentence when revoking an individual's parole or probation.

"Technical violation" means a violation of a condition of probation, parole, or mandatory supervision that does *not* involve (1) an arrest or a summons issued by a District Court Commissioner on a statement of charges filed by a law enforcement officer; (2) a violation of a criminal prohibition other than a minor traffic offense; (3) a violation of a no-contact or stay-away order; or (4) absconding.

"Absconding" means willfully evading supervision. Absconding does not include missing a single appointment with a supervising authority.

In *Brendoff v. State*, No. 578, Sept. Term, 2018, the Maryland Court of Special Appeals ruled that when an individual is placed on supervised probation upon admission into a drug and alcohol treatment facility pursuant to § 8-507 of the Health-General Article, DPP is the individual's supervising authority for the purposes of ascertaining whether the individual has "absconded." Because the treatment facility is not the individual's supervising authority, when an individual leaves treatment prematurely and without permission, the individual cannot be presumed to have committed the nontechnical violation of absconding. Unless the court finds that the individual has willfully evaded

DPP's supervision, the court or MPC must treat leaving the treatment facility as a technical violation when choosing to revoke parole or probation.

Warrant Apprehension: The Warrant Apprehension Unit (WAU) within DPSCS is authorized to (1) execute warrants for the retaking of offenders; (2) execute warrants for the arrest of probationers for whom a warrant is issued for an alleged violation of probation; (3) obtain and execute search warrants in connection with offenders in the State's home detention program as authorized by statute; and (4) arrest offenders in the State's home detention program as authorized by statute.

WAU employees who are authorized to make arrests must meet minimum qualifications required by the Maryland Police Training and Standards Commission and satisfactorily complete training prescribed by the commission. An employee in the unit who is authorized to make arrests is also authorized to exercise the powers of a peace officer and a police officer.

Chapter 20 of 2021 established the Public Resources Organizing to End Crime Together (P.R.O.T.E.C.T.) Program to maximize the use of State, local, and community resources to combat neighborhood decline in Baltimore City and throughout the State, support comprehensive strategies to reduce crime and fear in those communities, and ensure that Baltimore City Police Department sworn officers are utilized in direct public safety roles. Chapter 20 also requires DPSCS, the Department of Juvenile Services, and GOCPYVS to operate a warrant apprehension task force partnership.

In addition, the State provides regular and supplemental grants to local government police operations through various programs and funds administered by GOCPYVS. GOCPYVS plans, promotes, and funds efforts with government entities, private organizations, and the community to advance public policy, enhance public safety, reduce crime and juvenile delinquency, and serve victims. Examples of grants administered by GOCPYVS include the Maryland Violence Intervention and Prevention Program Fund, the Community Program Fund, and the State Aid for Police Protection Fund. The Governor's proposed fiscal 2023 budget includes \$59.6 million in general funds for local law enforcement grants administered by GOCPYVS to support law enforcement, crime prevention, and victim services.

State Expenditures: General fund expenditures for GOCPYVS increase by \$24,994 in fiscal 2023, by approximately \$2.0 million annually from fiscal 2024 through 2026, and by \$12,600 in fiscal 2027, as discussed below.

Mandated Funding – Fiscal 2024 through 2026

In addition to the administrative expenditures identified below, from fiscal 2024 through 2026, general fund expenditures increase by \$2.0 million annually due to the bill's

mandated appropriation – for grants to local law enforcement agencies for warrant apprehension efforts.

Administrative Expenditures Beginning in Fiscal 2023

General fund expenditures for GOCPYVS increase by \$24,994 in fiscal 2023, which accounts for a 90-day start-up delay. Although the bill’s mandated appropriation does not begin until fiscal 2024, staffing is necessary in fiscal 2023 to develop policies and procedures for the program and to initiate the grantmaking process prior to grant funding being available. Because the mandated appropriation is in effect for only three fiscal years, the added responsibilities for GOCPYVS are not permanent and, thus, may be performed by a part-time contractual employee. Therefore, this estimate reflects the cost of hiring one part-time grant manager to oversee the grant program. It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Contractual Position	0.5
Salary and Fringe Benefits	\$18,048
Operating Expenses	<u>6,946</u>
Total FY 2023 State Expenditures	\$24,994

Future year administrative expenditures (which total \$22,800 in fiscal 2024, \$23,600 in fiscal 2025, \$24,400 in fiscal 2026, and \$12,600 in fiscal 2027) reflect a full salary with annual increases and employee turnover as well as annual increases in ongoing operating expenses. The fiscal 2027 expenditures reflect termination of the part-time position on December 31, 2026.

This estimate does not include any health insurance costs that could be incurred for specified contractual employees under the State’s implementation of the federal Patient Protection and Affordable Care Act.

Because the bill limits the use of the mandated funding for grants to local law enforcement agencies, this analysis assumes that additional general funds are needed to cover the administrative costs incurred by GOCPYVS.

Other Potential Minimal Effects

The change in the definition of absconding may result in a minimal increase in general fund expenditures for the Judiciary and a minimal increase in general fund incarceration expenditures.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Harford, Montgomery, and Talbot counties; Maryland Association of Counties; Maryland Municipal League; Judiciary (Administrative Office of the Courts); Maryland Department of Health; Department of Public Safety and Correctional Services; Governor's Office of Crime Prevention, Youth, and Victim Services; Department of Budget and Management; Department of Legislative Services

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Analysis by: Shirleen M. E. Pilgrim

Direct Inquiries to:
(410) 946-5510
(301) 970-5510