

Department of Legislative Services
Maryland General Assembly
2022 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 457

(Senator Bailey)

Judicial Proceedings

Workgroup to Study Trial in Absence

This bill establishes the Workgroup to Study Trial in Absence. The workgroup must (1) study other jurisdictions that have implemented trial in absence; (2) determine the feasibility of implementing trial in absence in Maryland; (3) determine which nonserious misdemeanors and traffic-related offenses would be eligible for trial in absence; (4) determine the conditions under which a trial in absence would be authorized; and (5) determine how any penalties incurred through a trial in absence would be collected. By December 1, 2022, the workgroup must report its findings and recommendations to the General Assembly. Workgroup members may not receive compensation but are entitled to reimbursement for expenses under the standard State travel regulations. The Administrative Office of the Courts (AOC) must provide staff for the workgroup. **The bill takes effect July 1, 2022, and terminates June 30, 2023.**

Fiscal Summary

State Effect: Any expense reimbursements for workgroup members and staffing costs for AOC are assumed to be minimal and absorbable within existing resources.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: The common law right of a criminal defendant to be present at every critical stage of a trial is preserved by Article 5 of the Maryland Declaration of Rights and

implemented by the Maryland Rules. *See State v. Hart*, 449 Md. 246, 264-65 (2016). In addition, the Sixth Amendment to the U.S. Constitution and Article 21 of the Maryland Declaration of Rights generally protect an accused's right to confront witnesses.

Under Maryland Rule 4-231, a criminal defendant has the right to be physically present in person at a preliminary hearing and every stage of a trial, except (1) at a conference or argument on a question of law or (2) when a *nolle prosequi* or stet is entered, as specified. However, the right to be present is waived by a defendant (1) who is voluntarily absent after the proceeding has commenced, whether or not informed by the court of the right to remain; (2) who engages in conduct that justifies exclusion from the courtroom; or (3) who, personally or through counsel, agrees to or acquiesces in being absent. Rule 4-231 further specifies circumstances under which proceedings in a circuit court or District Court may proceed by remote electronic participation.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts); Department of Legislative Services

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