
MSCCSP



Maryland State Commission on Criminal Sentencing Policy

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TO: Senate Judicial Proceedings Committee

FROM: MSCCSP

RE: SB 392
State Commission on Criminal Sentencing Policy – Plea
Agreements and Annual Report (The Judicial Transparency
Act of 2022)

DATE: February 10, 2022

POSITION: Oppose

The Maryland State Commission on Criminal Sentencing Policy (MSCCSP or Commission) convened via videoconference on February 7, 2022, to solicit feedback on Senate Bill (SB) 392 and its cross-filed House Bill (HB) 412. Fourteen of the 19 Commissioners participated in the videoconference. By unanimous vote with 3 abstentions, the Commission voted to oppose SB 392 and its cross-filed HB 412.

The Commissioners voted to oppose HB 412/SB 392 because the legislation is inconsistent with the Commission’s historical and statutory purpose. Sentencing guidelines are voluntary and were never intended to impose an absolute limit on judicial discretion, or to gather and/or publish judge-specific sentencing information. Further, effective April 1, 2021, the MSCCSP narrowed the definition of what constitutes a guidelines-compliant binding plea, specifying that such pleas require agreement from all three parties (judge, prosecution, defense) to a specific amount of active time (if any), not merely a sentence cap or range. This revision followed a comprehensive study by the MSCCSP of binding pleas that included a review of definitions of binding plea agreements from other jurisdictions, an examination of relevant Maryland case law, and an analysis of data on sentences for guidelines-eligible cases sentenced from 2017 through 2019. The Commission appreciates the legislature’s concerns and respectfully requests that the legislature defer to allow the Commission time to assess the impact of the April 1, 2021, revised definition of guidelines-compliant binding pleas.