

MEMORANDUM

To: Members of the Senate Judicial Proceedings Committee

From: Maryland State Bar Association (MSBA)
Shaoli Katana, Esq., Director

Subject: Senate Bill 392 - State Commission on Criminal Sentencing Policy – Plea Agreements and Annual Report (The Judicial Transparency Act of 2022)

Date: February 8, 2022

Position: **Informational Only**

The Maryland State Bar Association (MSBA) respectfully files this informational letter on **Senate Bill 392 - State Commission on Criminal Sentencing Policy – Plea Agreements and Annual Report (The Judicial Transparency Act of 2022)**. Senate Bill 392 provides that a sentence imposed under a plea agreement may not be determined to be compliant with certain sentencing guidelines unless the sentence falls within the actual sentencing guidelines range; and requires a certain annual report by the State Commission on Criminal Sentencing Policy to identify certain information for crimes of violence.

MSBA represents more legal professionals than any other organization across the State in all practice areas. MSBA serves as the voice of Maryland’s legal profession. Through its Laws Committee and various practice-specific sections, MSBA monitors and takes positions on legislation of importance to the legal profession. MSBA is proud to recognize hundreds of judges from around the state as our members.

MSBA recognizes the importance of considering sentencing data and trends, but SB 392 raises concerns about separation of powers and infringement on the Judiciary.

Historically, MSBA has looked at sentencing guidelines as references, but not as mandatory requirements. SB 392 defines a sentence imposed under a plea agreement as non-compliant with the sentencing guidelines unless the sentence falls within the actual sentencing guidelines range. The bill does not account for valid reasons to deviate from current sentencing guidelines and contravenes judicial independence.

SB 392 also requires annual reporting by the State Commission on Criminal Sentencing Policy to include, for specific cases, the publication of the sentence imposed, the sentencing guidelines, and the name of the sentencing judge. Much of this information is already publicly available and could be used without identifying the specific judge, but instead, by identifying a judicial circuit. Disclosing details about individual judges jeopardizes their independence and safety. The proposed annual reporting would also fail to provide a comprehensive report of the many reasons that may support a sentence in a specific case, as that cannot be drilled down into the data points listed in the bill.

MSBA welcomes an opportunity to be a resource and provide relevant subject matter experts as your Committee considers the proposed legislation. Please feel free to contact Shaoli Katana at MSBA at shaoli@msba.org.