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CHILDREN · DEAF & HARD OF HEARING

The Honorable Edward J. Kasemeyer
Chair, Senate Budget and Taxation
Committee
3 West Miller Senate Office Building
1 Bladen Street
Annapolis, MD 21401

The Honorable Maggie McIntosh
Chair, House Appropriations Committee
121 House Office Building
6 Bladen Street
Annapolis, MD 21401

RE: 2017 Joint Chairmen's Report, pg. 21 -- D15A0516 Implementing the Justice Reinvestment Act

December 1, 2017

Dear Chair Kasemeyer and Chair McIntosh:

The 2017 Joint Chairmen's Report requires the Governor's Office of Crime Control and Prevention to report on Implementing the Justice Reinvestment Act. Pursuant to page 21 of the 2017 Joint Chairmen's Report, the following is required:

Implementing the Justice Reinvestment Act: Chapter 515 of 2016, the Justice Reinvestment Act (JRA), established Maryland's path to comprehensive criminal justice reform by altering provisions relating to sentencing, corrections, parole, and the supervision of offenders. The Governor's Office of Crime Control and Prevention (GOCCP) houses the Justice Reinvestment Oversight Board, which is charged with monitoring the progress and compliance with the implementation of Chapter 515. GOCCP should report to the committees with an update on the

status of the JRA implementation and how the provisions taking effect on October 1, 2017, will impact the agency's fiscal 2018 outlook.

Enclosed is the Office's submission in satisfaction of the reporting requirements

I hope this letter and enclosure meet with your approval. If the Office or I can be of further assistance, please do not hesitate to contact me or the Senior Director of Justice Reinvestment, Angelina Guarino at angelina.guarino@maryland.gov.

Sincerely,

V. Glenn Fueston, Jr.
Executive Director

Attachment: Governor's Office of Crime Control and Prevention JRA Implementation Report

cc:
Mr. Matthew Clark, Chief of Staff, Governor's Office
Mr. Christopher Shank, Governor's Chief Legislative Officer
Ms. Kelsey Goering, Operating Budget Analyst, Department of Budget and Management
Ms. Cathy Kramer, Department of Legislative Services
Ms. Sarah Albert, Department of Legislative Services

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Report by the Governor's Office of Crime Control & Prevention in Response to the Joint Chairmen's Report, Page 21- Implementing the Justice Reinvestment Act

Introduction

Senate Bill 1005 (Chapter 515 of 2016) made sweeping changes to Maryland's criminal justice system, abetted by the Governor's Office of Crime Control & Prevention (GOCCP). GOCCP houses the Justice Reinvestment Oversight Board, which is charged with monitoring the progress and compliance with the implementation of Chapter 515. As such, GOCCP is required to report to the committees an update on the status of the JRA implementation and how the provisions, effective October 1, 2017, will impact the agency's fiscal outlook in 2018. Over the past year, the Justice Reinvestment Oversight Board, Advisory Board, Local Government Commission, and GOCCP staff have coordinated the preparation and ultimate implementation of numerous internal and regulatory changes across six primary stakeholders. These statutes went into full effect on October 1, 2017 as a result of the following efforts from the Department of Labor, Licensing and Regulation (DLLR), the Maryland Department of Health (MDH), the Department of Public Safety and Correctional Services (DPSCS), the Maryland Judiciary, the Maryland Parole Commission (MPC), and the Maryland Association of Counties.

Sentencing Changes

The Justice Reinvestment Act (JRA) made significant revisions to the sentencing of controlled dangerous substance possession cases as well as misdemeanor and felony property-related crimes such as theft. These reductions were coupled with enhancements of sentencing maximums for second degree murder and first degree child abuse. The responsibility of implementing sentencing reductions falls primarily on the Judiciary, for which training materials have been designed to help familiarize judges with JRA provisions and direct the applicability of the new sentence guidelines.

In August 2017, the Judiciary, along with the Division of Parole and Probation (DPP), held a "Train the Trainer" program, in which bench cards were provided for procedural provisions affecting court ordered substance abuse placement, parole eligibility and release, and diminution credits impacting sentencing. Training was also provided to local prosecutors through the Maryland State's Attorneys Association to familiarize them with the same sentencing changes.

Release

The JRA posed numerous changes to procedures of release, release eligibility, restitution collection during work release, and mitigations of collateral consequences for post-release

offenders. DPSCS has developed and implemented internal policy for all areas of the JRA, including administrative release and changes impacting released individuals, includings new revocation caps imposed for violating conditions of release. In conjunction with the Maryland Parole Commission (MPC) and the Division of Correction (DOC), an operations policy was prepared to guide administrative release. Additionally, a victim notification working group convened in October 2017 to address outstanding issues with victim notification in administrative release cases and future rights and needs of victims in light of JRA processes, including notification of record expungement. The Department of Public Safety & Correctional Services (DPSCS) submitted Code of Maryland Regulations (COMAR) regarding Certificates of Rehabilitation. These changes were submitted to the Joint Committee on Administrative, Executive & Legislative Review for review and public comment.

The Justice Reinvestment Act expanded provisions for victims' rights by requiring restitution collection during work release. This new requirement entails expansion of existing collection systems, legal considerations, and case tracking between the courts, sentencing commission, state detention, local detention, and community supervision. The victim restitution working group, overseen by GOCCP, met twice during the implementation year to reconcile local restitution statutes and address the gaps in collection protocols by developing memoranda of understanding between specific counties to bring the state into compliance with JRA mandates. DPSCS developed a temporary collection method and long-term integration of existing automated systems for restitution tracking and collection to ensure readiness for the October 1, 2017 deployment.

Community Supervision

In order to develop the protocols and coordinate the extensive changes within corrections and supervision, MPC and DPSCS created ten innovation teams. These teams developed procedural and technical solutions to implement and track the mandated changes of the JRA to improve not only functionality between release and supervision systems, but also meet the need for continual evaluation of policy changes. The Division of Parole and Probation now employs a validated screening tool, the Level of Service Inventory- Revised (LSI-R), which will enable better case planning for supervision agents.[1] LSI-R training was also provided for the office of Clinical Services and Inmate Health through funding and coordination by the Crime and Justice Institute, the state's technical assistance provider. DPP and the Judiciary have collaborated to ensure the sharing of information and documents is seamless regarding technical violation recording. A Graduated Sanctions Matrix module has been built into the Offender Case Management System, creating a tiered system to address technical violations, and training has been held for the

[1] This Risk Screening tool will also be implemented widely by the Department of Corrections to improve treatment and programming delivery to inmates prior to reentry.

Judiciary to explain the application of these new processes. Thus far, all of the procedural training and modifications to reporting requirements to track technical violations have been accomplished at no additional cost.

Future Planning

Under the leadership of the Justice Reinvestment Oversight Board, the Local Government Commission, and the Governor's Office of Crime Control and Prevention, efforts to monitor and resolve issues of implementation will continue. With implementation complete or underway, Maryland's Justice Reinvestment Initiative will progress towards quarterly review of implementation performance measures to guide further needs of existing JRA programs and addressing the findings of the first year's reports on behavioral health gaps and needs, victim restitution, conflict resolution, collateral consequences, and sentencing alternatives.

2018 Fiscal Impact

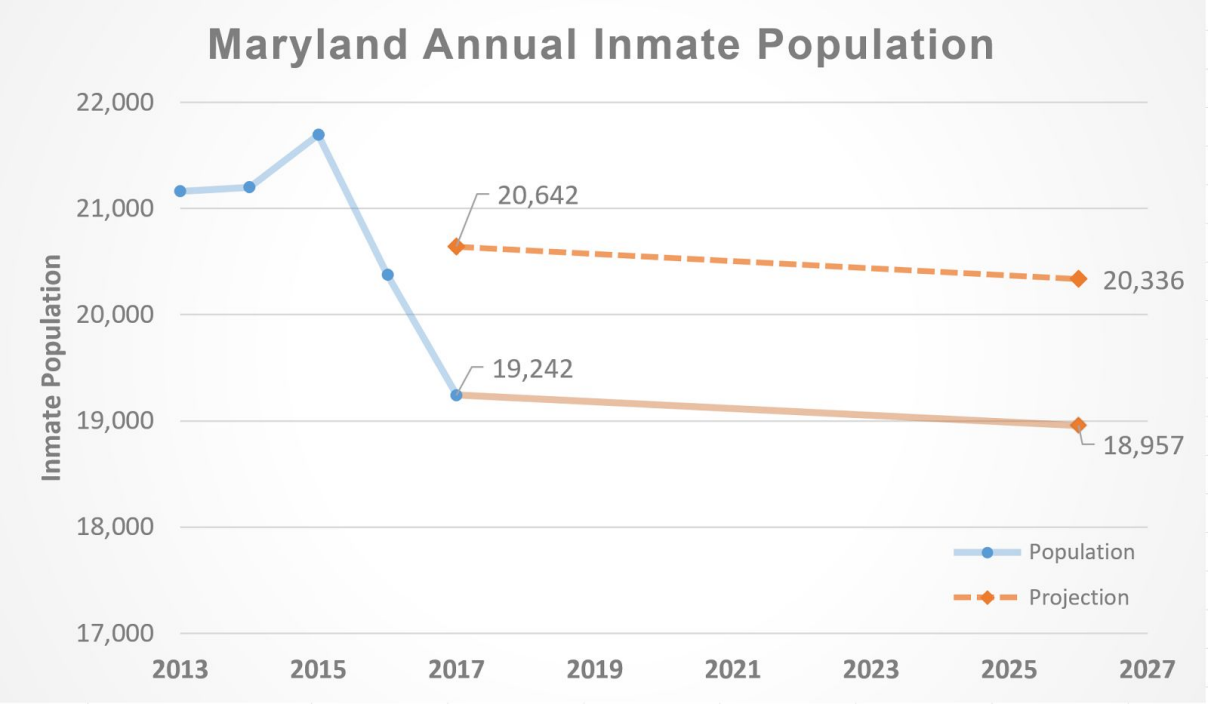
The Justice Reinvestment Act has little to no effect on operational expenditures of the Governor's Office of Crime Control & Prevention. As part of the Administration's support of the Justice Reinvestment Act, GOCCP has committed Byrne Justice Assistance Grant funding in federal FY 2018 to programs meeting the reinvestment priorities of deflection/diversion, alternative sentencing, reentry support, corrections programming, and workforce development training. As part of GOCCP's strategic crime control plan, the goals of the JRA are being integrated across its objectives to ensure that GOCCP's funding promotes the priorities identified in the work of the Justice Reinvestment Coordinating Council.

To oversee the Administration's contribution and coordinate oversight functions, GOCCP has hired one new position, the Director of Justice Reinvestment, which is provided for with federal funds in FY 2017 and FY 2018 through partnership with the Crime and Justice Institute. In FY 2018, a second full time managerial position was dedicated to the office's Justice Reinvestment efforts by reclassifying a pin. Additionally, the Office has committed its existing legislative staff as auxiliary support to Justice Reinvestment and Oversight Board operations at no additional cost to GOCCP.

To address costs incurred to facilitate JRA provision implementation, federal funds were dedicated by the Bureau of Justice Assistance to support JRA-related projects during federal FY 2018. This one-time funding was dedicated towards state and local criminal justice agencies for information technology improvements, training, and equipment needed to facilitate JRA adoption and the support of new sustainable processes aimed at implementing JRA policies, consistent with the evidence-based requirements of the Justice Reinvestment Initiative as a

whole. This funding will be awarded to stakeholder agencies and local impacted entities to address unanticipated costs associated with implementation.

To better calculate future cost savings and cost shifting, GOCCP is collecting standardized sentencing and population demographics from both DPSCS and local detention centers, beginning on a monthly basis. While the method of calculating cost savings for the Performance Incentive Grant will remain the same as originally required by JRA, quarterly detailed stakeholder level analysis will be conducted by GOCCP to identify cost impacts for the State beyond that which is indicated by decreased offender population. Detailed community supervision data will measure changes in average duration, level, and success of supervision, which could result in cost savings. GOCCP will also monitor caseload to calculate possible need for additional staff. As estimated in the original fiscal note for SB 1005, local incarceration expenditures may rise slightly from increased commitment to local detention as a result of the new sentence reductions for drug and property crimes. Far greater decreases are expected from revisions to sentencing for suspended license violations and revocation caps, which could affect at least 25% of the local population.[2] At this point in JRA's implementation, it is too soon to project how much of an impact JRA provisions will have on local jurisdictions.



Data Source: Department of Public Safety and Correctional Service Annual Reports, DPSCS Office of Grants, Policy and Statistics, and Pew Charitable Trusts[3]

[2] Justice Reinvestment Initiative Report: Budgetary Requirements on Location Detention Centers, December 31, 2016. Governor's Office of Crime Control and Prevention

[3] Pew Charitable Trusts. "Maryland's 2016 Criminal Justice Reform" Published November 2017.

As mandated by the JRA, initial baseline data collection of prison population size was reported on October 1, 2017 by the Department of Public Safety and Correctional Services. The 2017 state-level prison population snapshot of 19,224 inmates was lower[4] than the 20,642 prison population projection from PEW Charitable Trusts. The original FY 2026 projection of 20,336 represented a 1.4% decrease from the FY 2017 population. If the same rate is maintained given the FY 2017 snapshot, the FY 2026 population could fall to 18,957 under current JRA reforms, resulting in even fewer inmates than projected. As such, GOCCP is seeking to update the original calculations presented in the Justice Reinvestment Coordinating Council Final Report with the most recent two fiscal years' prison population levels, which were previously unavailable. This would determine any change in the timeline or amount of savings accrued before the target date of FY 2026.

[4] The population baseline measurement required by JRA was taken on October 1, 2017, the first effective date of JRA's sentencing provisions. It was intended as a baseline measure for an annual snapshot taken on October 1 to calculate JRA impacts, thus it is not the official DPSCS annual year to date number for FY 2017, which is taken on June 30, 2017.