

**Maryland State Commission on  
Criminal Sentencing Policy**

**Study on Alternatives to Incarceration**



**MSCCSP**  
**4511 Knox Road, Suite 309, College Park, MD 20742**  
**[www.msccsp.org](http://www.msccsp.org)**

## EXECUTIVE SUMMARY

The Justice Reinvestment Act (JRA) ([Senate Bill 1005/Ch.515, Sec. 8, 2016](#)) requires the Maryland State Commission on Criminal Sentencing Policy (MSCCSP) to study how more alternatives to incarceration may be included in the sentencing guidelines and to submit a report of the findings and recommendations to the Justice Reinvestment Oversight Board, Governor, and General Assembly by January 1, 2018. By guidelines rule, judges in Maryland are able currently to impose a sentence consistent with the sentencing guidelines by utilizing specified alternatives to incarceration, known as corrections options. However, this rule regarding corrections options is either not well known by the criminal justice community, not well understood, or perhaps both. The recommendations provided in this report address this specific issue and offer additional recommendations for the MSCCSP and other agencies to consider to support further the use of alternatives to incarceration for appropriate offenders.

The MSCCSP and its predecessor, the Maryland Commission on Criminal Sentencing Policy, devoted considerable time and effort to the study of intermediate sanction programs or “*corrections options*” or “*correctional options*” programs. Given the comprehensiveness of this prior study, the MSCCSP considered these prior efforts when formulating the proposed recommended actions included in this current study (see Appendix B for a summary of the history of corrections options in Maryland).

Research on the effectiveness of alternatives to incarceration relative to imprisonment has shown repeatedly that the rate of re-offending following non-custodial sanctions is lower than or similar to the rate of re-offending following custodial sanctions (Villettaz, Gillieron, and Killias, 2015). There are a number of resources available to assist policy makers and practitioners with identifying effective alternatives. Two such tools are the National Drug Court Institute’s Annals of Research and Knowledge (ARK) and the National Institute of Justice’s CrimeSolutions.gov. As the State of Maryland continues to promote the use of alternatives to incarceration, resources like the ARK and CrimeSolutions.gov that identify evidence-based programs and practices can inform decisions about which alternatives to incarceration to fund and implement.

In order to further address the directive that commissioned this study, this report reviewed how other jurisdictions incorporate alternatives to incarceration within their sentencing guidelines structures. Guidelines jurisdictions that include alternatives to incarceration can be categorized as

follows: those with grid systems similar to Maryland, those with grid systems more complex than Maryland's, those that codified alternatives to incarceration, and those without grid systems. Examples of alternatives to incarceration utilized in other jurisdictions include straight probation, probation with community confinement or home detention, suspended sentences with a condition of community corrections, drug treatment court, other substance abuse treatment or mental health treatment, weekend incarceration, work release, and fines.

In order to assess how more alternatives to incarceration may be included in Maryland's sentencing guidelines, the MSCCSP decided to gauge the currently available alternatives on a jurisdiction-by-jurisdiction basis. The MSCCSP created an inventory to assess alternatives to incarceration available to circuit court judges. The inventory was distributed to circuit court administrative judges, Parole and Probation field supervisors, and local correctional administrators in each of Maryland's 24 jurisdictions. With the help of the Administrative Office of the Courts (AOC), an online survey was created and distributed to participants via e-mail. The primary findings from the survey include the following:

- Maryland has a robust offering of alternatives to incarceration, but the availability of programs varies from jurisdiction to jurisdiction.
- There were discrepancies within all jurisdictions where more than one respondent answered.
- There are a number of programs available statewide, including Health General Article (HG), § 8-507 commitments, outpatient drug treatment programs, Drinking Driver Monitor Program, and anger management programs.
- Twenty-three of 24 jurisdictions indicated that a variety of other alternatives to incarceration were available within their jurisdiction, including electronic monitoring, home confinement, work release, community service, mental health treatment programs, and parenting classes.
- Respondents felt generally that drug and alcohol treatment programs were the most effective alternatives to incarceration.
- The majority of respondents (68%) want to see additional alternatives to incarceration within their jurisdictions. Specifically, 23% of respondents indicated they would like to see additional drug treatment programs and 20% of respondents indicated they would like to see additional mental health treatment programs within their respective jurisdictions.

From the survey results, the MSCCSP created a table of Reported Alternatives to Incarceration, by jurisdiction (see Appendix A). To gain a better understanding of program availability, the

MSCCSP communicated with approximately 60% of the programs identified in the survey responses to determine the program's target population, factors that could disqualify an individual from the program, the program's capacity, and fees associated with the program.

The MSCCSP considered initially the feasibility of incorporating in the sentencing guidelines alternatives to incarceration (other than standard probation) within specific cells of the three sentencing matrices. Ultimately, however, the MSCCSP decided against doing so for reasons that are outlined in the recommendations section of this report. Instead, the MSCCSP identified a simpler approach to support the use of alternatives to incarceration involving the following recommended actions for consideration by the MSCCSP and other state agencies and local entities:

#### Recommended Actions for the MSCCSP

1. Expand the definition of "corrections options" to include specified sentences with required substance abuse treatment as guidelines-compliant.
2. Educate judges, court staff, and legal practitioners on guidelines-compliant sentences with respect to corrections options.
3. Adopt a policy statement encouraging the use of alternatives to incarceration, where appropriate.
4. Collect additional data on sentences utilizing alternatives to incarceration.

#### Recommended Actions for Other State Agencies and Local Entities

5. Create a web-based alternatives locator service.
6. Conduct an analysis of available programming for offenders and identify programming gaps.
7. Expand the scope and use of the presentence investigation report.

**Appendix A: Reported Alternatives to Incarceration<sup>10</sup>**

Jurisdiction	Adult			Juvenile			Family/Dependent			DUI/Drug			Circuit Court Mental Health			Veterans			Pretrial			Electronic			Home			Work			Day		
	Court	Drug	Court	Court	Drug	Court	Drug Court	Drug Court	Drug Court	Court	Drug Court	Court	Health	Court	Health	Court	Court	Court	Diversion	Monitoring	Confinement	Release	Reporting	Release	Reporting	Release	Reporting						
Allegany	No		No	No		No	No	No	No	No	No	No	No	No	No	No	No	No	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	No			
Anne Arundel	Yes		No	No		No	No	Yes	Yes	No	No	No	No	No	No	No	No	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	No				
Baltimore City	Yes		No	No		Yes	No	No	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	No				
Baltimore Co.	No		Yes	Yes		Yes	No	No	No	No	No	No	No	No	No	No	No	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	No				
Calvert	Yes		No	No		No	No	No	No	No	No	No	No	No	No	No	No	No	Yes <sup>11</sup>	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	No				
Caroline	Yes		No	No		No	No	No	No	No	No	No	No	No	No	No	No	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	No				
Carrall	Yes		No	No		No	No	No	No	No	No	No	No	No	No	No	No	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	No				
Cecil	Yes		No	No		No	No	No	No	No	No	No	No	No	No	No	No	No	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	No				
Charles	No		No	No		Yes	Yes	No	No	No	No	No	No	No	No	No	No	No	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	No				
Dorchester	No		No	No		No	No	No	No	No	No	No	No	No	No	No	No	No	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	No				
Frederick	Yes		No	No		No	No	No	No	No	No	No	No	No	No	No	No	No	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	No				
Garrett	No		No	No		No	No	No	No	No	No	No	No	No	No	No	No	No	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	No				
Harford	No		No	No		Yes	Yes	Yes	Yes	Yes	Yes	No	No	No	No	No	No	No	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	No				
Howard	No		No	No		No	No	No	Yes	Yes	No	No	No	No	No	No	No	No	No	No	No	No	No	No	No	No	Yes	No	No				
Kent	No		No	No		No	No	No	No	No	No	No	No	No	No	No	No	No	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	No				
Montgomery	Yes		No	No		No	No	No	No	No	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	No				
Prince George's	Yes		Yes	Yes		No	No	No	No	No	No	No	No	No	No	No	No	No	No	Yes	Yes	Yes	Yes	Yes	Yes	No	No	No	No				
Queen Anne's	No		No	No		No	No	No	No	No	No	No	No	No	No	No	No	No	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	No				
St. Mary's	Yes		Yes	Yes		Yes	Yes	Yes	Yes	Yes	Yes	No	No	No	No	No	No	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	No				
Somerset	No		No	No		No	No	No	No	No	No	No	No	No	No	No	No	No	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	No				
Talbot	Yes		No	No		No	No	No	No	No	No	No	No	No	No	No	No	No	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	No				
Washington	No		Yes	Yes		No	No	No	No	No	No	No	No	No	No	No	No	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes				
Wicomico	Yes		No	No		No	No	No	No	No	No	No	No	No	No	No	No	No	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	No				
Worcester	Yes		Yes	Yes		No	No	No	No	No	No	No	No	No	No	No	No	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	No				
<b>Total</b>	<b>13</b>		<b>5</b>	<b>5</b>		<b>5</b>	<b>5</b>	<b>4</b>	<b>4</b>	<b>2</b>	<b>2</b>	<b>2</b>	<b>2</b>	<b>2</b>	<b>2</b>	<b>2</b>	<b>2</b>	<b>9</b>	<b>23</b>	<b>23</b>	<b>23</b>	<b>23</b>	<b>23</b>	<b>23</b>	<b>23</b>	<b>23</b>	<b>1</b>	<b>1</b>					

<sup>10</sup> The Office of Problem Solving Court's website was used to determine the availability by jurisdiction of Maryland's Problem Solving Courts. In other categories, the MSCCSP updated respondents' answers in a few scenarios. If additional respondents from the same county listed available programs or the MSCCSP spoke with the program representative who either confirmed the availability of the program or denied the availability of the program, the MSCCSP updated responses accordingly.

<sup>11</sup> Operated by the District Court State's Attorney's Office.

<i>Jurisdiction</i>	HIDTA <sup>12</sup>	HG, § 8-507	Inpatient Drug Treatment <sup>13</sup>	Outpatient Drug Treatment <sup>12</sup>	TASC	DDMP
<i>Allegany</i>	No	Yes	Yes	Yes	No	Yes
<i>Anne Arundel</i>	No	Yes	Yes	Yes	No	Yes
<i>Baltimore City</i>	Yes	Yes	Yes	Yes	Yes	Yes
<i>Baltimore Co.</i>	No	Yes	Yes	Yes	Yes	Yes
<i>Calvert</i>	No	Yes	Yes	Yes	No	Yes
<i>Caroline</i>	No	Yes	No	Yes	No	Yes
<i>Carrall</i>	No	Yes	Yes	Yes	No	Yes
<i>Cecil</i>	Yes	Yes	Yes	Yes	No	Yes
<i>Charles</i>	No	Yes	Yes	Yes	No	Yes
<i>Dorchester</i>	No	Yes	Yes	Yes	No	Yes
<i>Frederick</i>	No	Yes	Yes	Yes	No	Yes
<i>Garrett</i>	No	Yes	Yes	Yes	No	Yes
<i>Harford</i>	Yes	Yes	No	Yes	No	Yes
<i>Howard</i>	No	Yes	Yes	Yes	No	Yes
<i>Kent</i>	No	Yes	Yes	Yes	No	Yes
<i>Montgomery</i>	Yes	Yes	Yes	Yes	Yes	Yes
<i>Prince George's</i>	No	Yes	Yes	Yes	No	Yes
<i>Queen Anne's</i>	No	Yes	Yes	Yes	No	Yes
<i>St. Mary's</i>	No	Yes	Yes	Yes	No	Yes
<i>Somerset</i>	No	Yes	No	Yes	No	Yes
<i>Talbot</i>	No	Yes	No	Yes	No	Yes
<i>Washington</i>	Yes	Yes	Yes	Yes	No	Yes
<i>Wicomico</i>	No	Yes	Yes	Yes	No	Yes
<i>Worcester</i>	No	Yes	Yes	Yes	No	Yes
<b>Total</b>	<b>5</b>	<b>24</b>	<b>20</b>	<b>24</b>	<b>3</b>	<b>24</b>

<sup>12</sup> Where respondents' answers conflicted, the answers are based on Washington/Baltimore HIDTA regions. There are 13 HIDTA regions in Maryland (Anne Arundel, Baltimore City, Baltimore County, Carroll, Cecil, Charles, Frederick, Harford, Howard, Montgomery, Prince George's, Washington, and Wicomico) (Chapman, Colder, and Carr, 2017). However, being a HIDTA region in itself does not guarantee an available alternative to incarceration.

<sup>13</sup> At least one program indicated that they would accept individuals from any part of Maryland.

<i>Jurisdiction</i>	Community Service	Mental Health Program <sup>12</sup>	DV/Abuser Program <sup>12</sup>	Anger Management <sup>12</sup>	Parenting Classes <sup>12</sup>	Employment Training <sup>12</sup>	Veterans' Services <sup>12</sup>	Homeless Services <sup>12</sup>
<i>Allegany</i>	Yes	Yes	Yes	Yes	Yes	No	No	No
<i>Anne Arundel</i>	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes <sup>14</sup>
<i>Baltimore City</i>	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No
<i>Baltimore Co.</i>	Yes	Yes <sup>15</sup>	Yes	Yes	Yes	Yes	Yes	No
<i>Calvert</i>	Yes	Yes	Yes	Yes	Yes	Yes <sup>16</sup>	No	Yes
<i>Caroline</i>	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes
<i>Carroll</i>	Yes	Yes	Yes	Yes	Yes	Yes	No	No
<i>Cecil</i>	Yes	Yes	Yes	Yes	Yes	No	Yes	No
<i>Charles</i>	Yes	No	Yes	Yes	Yes	Yes	No	Yes <sup>13</sup>
<i>Dorchester</i>	No	Yes	Yes	Yes	Yes	Yes	No	Yes
<i>Frederick</i>	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
<i>Garrett</i>	Yes	Yes	Yes	Yes	Yes	Yes	No	No
<i>Harford</i>	Yes	Yes	Yes	Yes	Yes	Yes <sup>17</sup>	BD <sup>18</sup>	Yes
<i>Howard</i>	Yes	Yes	Yes	Yes	Yes	No	No	No
<i>Kent</i>	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
<i>Montgomery</i>	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes
<i>Prince George's</i>	Yes	Yes	Yes	Yes	Yes	No	No	Yes
<i>Queen Anne's</i>	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes
<i>St. Mary's</i>	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes
<i>Somerset</i>	Yes	Yes	Yes	Yes	Yes	Yes	No	No
<i>Talbot</i>	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes
<i>Washington</i>	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
<i>Wicomico</i>	Yes	Yes	No	Yes	No	Yes	No	Yes
<i>Worcester</i>	Yes	Yes	Yes	Yes	Yes	Yes	No	No
<b>Total</b>	<b>23</b>	<b>23</b>	<b>23</b>	<b>24</b>	<b>23</b>	<b>18</b>	<b>8</b>	<b>16</b>

<sup>14</sup> For individuals in psychiatric crisis.

<sup>15</sup> Respondents listed only one program for this category, and it is only available to homeless individuals.

<sup>16</sup> Programs for individuals with disabilities.

<sup>17</sup> For individuals with the most significant disabilities.

<sup>18</sup> Per the survey respondent, this program is being developed.

<i>Jurisdiction</i>	Victim Offender Mediation	Additional Mediation <sup>11</sup>	Restorative Justice Programs	First Offender Programs	Prostitution Prevention <sup>11</sup>	Shoplifter Alternative Programs	Additional Programs <sup>11</sup>
<i>Allegany</i>	No	No	No	No	No	No	No
<i>Anne Arundel</i>	No	No	No	No	No	No	Yes
<i>Baltimore City</i>	Yes	Yes	Yes	Yes	TBD <sup>19</sup>	No	No
<i>Baltimore Co.</i>	Yes	Yes	No	Yes	No	No	No
<i>Calvert</i>	Yes	Yes	No	No	No	No	No
<i>Caroline</i>	Yes	Yes	No	No	No	No	No
<i>Carrroll</i>	Yes	Yes	No	Yes	No	No	Yes
<i>Cecil</i>	Yes	Yes	No	No	No	No	No
<i>Charles</i>	No	Yes	No	No	No	No	No
<i>Dorchester</i>	No	No	No	No	No	No	No
<i>Frederick</i>	Yes	No	No	No	No	No	No
<i>Garrett</i>	No	No	No	No	No	No	No
<i>Harford</i>	Yes	Yes	No	No	No	No	Yes
<i>Howard</i>	Yes	Yes	No	No	No	No	No
<i>Kent</i>	Yes	Yes	No	Yes	No	No	No
<i>Montgomery</i>	Yes	Yes	Yes	Yes	No	No	Yes
<i>Prince George's</i> <sup>20</sup>	Yes	No	No	Yes	Yes	No	No
<i>Queen Anne's</i>	Yes	Yes	No	No	No	No	No
<i>St. Mary's</i>	Yes	Yes	No	No	No	No	Yes
<i>Somerset</i>	No	Yes	No	No	No	No	No
<i>Talbot</i>	Yes	No	No	No	No	No	No
<i>Washington</i>	Yes	Yes	No	No	No	No	No
<i>Wicomico</i>	Yes	Yes	No	Yes	No	No	No
<i>Worcester</i>	Yes	Yes	No	No	No	No	No
<b>Total</b>	<b>18</b>	<b>17</b>	<b>2</b>	<b>7</b>	<b>2</b>	<b>0</b>	<b>5</b>

<sup>19</sup> The location of the program is in the process of moving.

<sup>20</sup> Prince George's County has many programs available only in District Court. As Maryland's sentencing guidelines only apply to cases in Maryland circuit courts, these programs are reported here as not available.