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Larry Hogan
Governor
Boyd K. Rutherford
Lt. Governor
V. Glenn Fueston, Jr.
Executive Director

**Justice Reinvestment Oversight Board
January 4, 2017 at 2:30 pm
Joint Hearing Room, Legislative Services Building
Annapolis, MD 21401**

Agenda

Call to order, welcome and introductions (Judge Daniel Long, Chair)

Overview and discussion of the Justice Reinvestment Act (Sen. Chris Shank, Chief Legislative Officer for Governor Hogan)

Role of the Oversight Board (Mr. Glenn Fueston, Executive Director of the Governor's Office of Crime Control & Prevention)

Department of Health and Mental Hygiene - Report on Court-Ordered Evaluations and Placements for Substance Use Disorders (Dr. Barbara Bazron, Executive Director, Behavioral Health Administration)

Appointment and approval of Board's Vice Chair (Judge Daniel Long)

Good of the order and adjournment (Judge Daniel Long)

Justice Reinvestment Oversight Board Members

- Judge Daniel M. Long, Chair—Appointed by the Governor
- Senator Michael Hough, District 4, Frederick and Carroll Counties—Appointed by the President of the Senate
- Delegate Kathleen Dumais, District 15, Montgomery County—Appointed by the Speaker of the House
- V. Glenn Fueston Jr., Executive Director, Governor’s Office of Crime Control & Prevention—designated by the JRA
- Patricia Goins-Johnson, Department of Public Safety and Correctional Services—designee of the Secretary of Public Safety and Correctional Services
- John R. Greene Jr., Maryland Parole Commission—designee of the Chair of the Maryland Parole Commission
- Major Roland Butler, Maryland State Police—designee of the Secretary of the Maryland State Police
- David Eppler, Office of the Attorney General—designee of the Attorney General
- Paul DeWolfe, Office of the Public Defender—designated by the JRA
- Secretary David Brinkley, Department of Budget and Management—designated by the JRA
- Barbara Bazron, Department of Health and Mental Hygiene—designee of the Secretary of Health and Mental Hygiene
- Robert L. Green, Montgomery County Department of Correction and Rehabilitation—Chair of the Local Government Justice Reinvestment Commission, designated by the JRA
- Chief Judge John Morrissey, District Court of Maryland—Appointed by the Chief Judge of the Court of Appeals
- Judge Kathleen Gallogly Cox, Baltimore County Circuit Court—Appointed by the Chief Judge of the Court of Appeals
- Constance Parker, Department of Labor, Licensing and Regulation—designee of the Secretary of Labor, Licensing and Regulation
- Sheriff Jim Dewees, Carroll County—Appointed by the Maryland Chiefs of Police Association and the Maryland Sheriffs’ Association

- Scott Shellenberger, State's Attorney, Baltimore County—President of the Maryland State's Attorneys' Association, designated by the JRA
- Terry Kokolis, Anne Arundel County Department of Detention Facilities—Appointed by the President of the Maryland Correctional Administrators Association as a representative of a large county correctional facility
- Douglas C. Devenyns, Talbot County Detention Center—Appointed by the President of the Maryland Correctional Administrators Association as a representative of a small county correctional facility
- Councilman Jamel R. (Mel) Franklin, Prince George's County—designee of the President of the Maryland Association of Counties
- Russell Butler, Maryland Crime Victims' Resource Center—Victim's Representative, Appointed by the Governor
- Kevin Davis, Police Commissioner of the Baltimore Police Department—Law Enforcement Representative, Appointed by the Governor
- Jinlene Chan, Anne Arundel County Department of Health—Local Health Officer, Appointed by the Governor
- Lori Brewster, Wicomico County Health Department—Local Health Officer, Appointed by the Governor
- Perthean Toins-Banks, Department of Labor, Licensing and Regulation—Direct Experience Teaching Inmates, Appointed by the Governor

Governor's Office of Crime Control & Prevention

Larry Hogan
Governor

Boyd K. Rutherford
Lieutenant Governor

V. Glenn Fueston,
Executive Director

Fact Sheet Justice Reinvestment Initiative

Overview

The Justice Reinvestment Initiative is a nationwide, data-driven approach to improve public safety, reduce corrections spending and reinvest savings in strategies that can decrease crime and reduce recidivism.

Seeking to maximize the public safety returns on Maryland's corrections spending, the 2015 General Assembly passed and Governor Hogan signed Senate Bill 602 which established a bipartisan, inter-branch Justice Reinvestment Coordinating Council.

The Council was tasked with developing a statewide framework of sentencing and corrections policies, specifically focused on changes in the corrections system to maximize further reductions in the incarcerated population and crime rate for every taxpayer dollar spent.

Findings & Recommendations

Through the analysis of Maryland's prison data, the Justice Reinvestment Coordinating Council discovered that while admissions are down 19 percent over the last 10 years, 58 percent are for nonviolent crimes and nearly 60 percent of prison admissions are failures of probation or post-release supervision.

Approximately 43 percent of probation revocations and over 70 percent of parole and mandatory supervision returns are for technical violations. Time served across all offense types has gone up 23 percent in the last decade, driven by a 25 percent increase in average sentence length.

From this data, the Justice Reinvestment Coordinating Council made 19 recommendations that were submitted to Governor Hogan and the Maryland General Assembly.

Justice Reinvestment Act (Chapter 515)

The Justice Reinvestment Act represents the most comprehensive criminal justice reform to pass in a generation. It works to hold individual offenders accountable for their actions and the government accountable for its responsibility to spend tax dollar wisely and ensure safe communities. The Act emphasizes treatment for those struggling with addiction, provides an opportunity to elevate the voice of victims, and strengthens community supervision through evidence-based practices.

Reinvestment Priorities:

Treatment

A performance incentive grant program

Restitution collection for victims of crime

Re-entry

Beds for medical parolees

Training for criminal justice decision makers

Justice Reinvestment Act (Chapter 515)

The provisions of the Act involving crimes, corrections, and the courts are effective October 1, 2017. The provisions establishing the Justice Reinvestment Oversight Board and the required reports and studies are effective October 1, 2016.

Focuses prison beds on serious, repeat offenders:

- Eliminates mandatory minimum sentences for controlled dangerous substance felonies; maintains mandatory minimums for violent offenders, volume dealers, drug kingpins, and firearms-related offenses
- Third and subsequent controlled dangerous substance felony offenses are eligible for parole at 50 percent of time served, instead of the current 25 percent
- Provides subsequent drug offenders currently serving a mandatory minimum sentence an opportunity to appeal the sentence for up to one year
- Doubles the sentence for controlled dangerous substance felonies where there is a prior crime of violence
- Creates Racketeer Influenced and Corrupt Organizations (RICO) language similar to federal language to allow prosecutors to target high level drug traffickers
- Maximum sentence for second degree murder increased from 30 to 40 years
- Maximum sentence for child abuse that results in death increased to life sentence
- Theft will be charged as a felony at \$1,500 instead of \$1,000 with a maximum sentence of 5 years, and theft charges under \$1,500 will be charged as a misdemeanor with a maximum sentence of 18 months
- Administrative release process for low level offenders at 25 percent of sentence served if a case plan is followed, there are no major conduct infractions, the victim does not request a hearing, and the Parole Commission deems a hearing unnecessary
- Eliminates disparity between crack and powder cocaine for volume dealers
- Eliminates jail time for driving while suspended for failure to pay a fine
- Lowers age for geriatric parole eligibility from 65 years old to 60 after individual has served 15 years; makes previously eligible sex offenders ineligible
- Expands the use of medical parole

Emphasizes treatment for those struggling with addiction:

- Requires the Department of Health and Mental Hygiene to facilitate immediate treatment to defendants ordered to Heath General Article Section 8-507 drug treatment
- Revised drug possession penalties: 1st offense – up to a year; 2nd or 3rd – up to 18 months; 4th and subsequent – up to 2 years

Elevates the voices of victims of crime:

- All inmates ordered to pay restitution to the victim will have 25 percent withheld of any inmate earnings for restitution
- Also requires that 5 percent of the grants provided through the Performance Incentive Grant Fund go to victims' programs and orders a study of the current restitution process to determine how to better collect restitution

Strengthens community supervision through evidence-based practices:

- Revocation caps for technical violations (i.e., violations not involving new crimes) of parole and probation: 1st offense – up to 15 days; 2nd – up to 30 days; 3rd – up to 45 days; 4th and subsequent – judicial discretion up to the remainder of the sentence
- Incentivizes evidence-based programming by expanding in-prison good time behavior and program credits

Expands opportunities for ex-offenders:

- An individual may file a petition of expungement of their record if the person is convicted of certain misdemeanor offenses and it has been 10 years since the individual has satisfied the sentence
- Creates certificate of completion for first time, nonviolent, non-sex offenders who successfully complete supervision

Oversight mechanisms to ensure legislation is implemented as intended:

- Establishes a Justice Reinvestment Oversight Board, a Local Government Justice Reinvestment Commission, and an advisory board of criminal justice stakeholders
- Establishes a performance incentive grant fund administered by the Oversight Board
- Requires studies of restitution process, substance abuse gaps and needs, collateral consequences of convictions, needs of local correctional facilities, the number of substance abuse assessments annually by the courts, and how to include more alternatives to incarceration in the sentencing guidelines

JUSTICE REINVESTMENT ACT – BOARDS AND COMMISSION
(Full text of Justice Reinvestment Act may be found at
http://mgaleg.maryland.gov/2016RS/chapters_noln/Ch_515_sb1005E.pdf)

Article - State Government

9-3201.

- (a) In this subtitle the following words have the meanings indicated.
- (b) “Board” means the Justice Reinvestment Oversight Board.
- (c) “Executive Director” means the Executive Director of the Governor’s Office of Crime Control and Prevention.
- (d) “Fund” means the Performance Incentive Grant Fund established in § 9-3209 of this subtitle.

9-3202.

There is a Justice Reinvestment Oversight Board in the Governor’s Office of Crime Control and Prevention.

9-3203. Membership.

- (a) In general. -- The Board consists of the following members:
 - (1) one member of the Senate of Maryland, appointed by the President of the Senate;
 - (2) one member of the House of Delegates, appointed by the Speaker of the House;
 - (3) the Executive Director, or the Executive Director's designee;
 - (4) the Secretary of Public Safety and Correctional Services, or the Secretary's designee;
 - (5) the chair of the Maryland Parole Commission, or the chair's designee;
 - (6) the Secretary of State Police, or the Secretary's designee;
 - (7) the Attorney General, or the Attorney General's designee;
 - (8) the Public Defender, or the Public Defender's designee;
 - (9) the Secretary of Budget and Management, or the Secretary's designee;
 - (10) the Secretary of Health and Mental Hygiene, or the Secretary's designee;
 - (11) the chair of the Local Government Justice Reinvestment Commission, or the chair's designee;
 - (12) two members appointed by the Chief Judge of the Court of Appeals;

- (13) the Secretary of Labor, Licensing, and Regulation, or the Secretary's designee;
 - (14) one member appointed by the Maryland Chiefs and Sheriffs Association;
 - (15) the president of the Maryland State's Attorneys' Association or the president's designee;
 - (16) two members of the Maryland Correctional Administrators Association, appointed by the president of the Maryland Correctional Administrators Association, including one representative from a large correctional facility and one representative from a small correctional facility;
 - (17) the president of the Maryland Association of Counties or the president's designee; and
 - (18) the following individuals, appointed by the Governor:
 - (i) one member representing victims of crime;
 - (ii) one member representing law enforcement;
 - (iii) two local health officers; and
 - (iv) one member with direct experience teaching inmates in academic programs intended to achieve the goal of a high school diploma or general educational development certification.
- (b) Consideration of geographic diversity. -- To the extent practicable, in making appointments under this section, the Governor shall ensure geographic diversity among the membership of the Board.
- (c) Term. --
- (1) The term of an appointed member of the Board is 4 years.
 - (2) The terms of the appointed members of the Board are staggered as required by the terms provided for members of the Board on October 1, 2016.
 - (3) At the end of a term, an appointed member:
 - (i) is eligible for reappointment; and
 - (ii) continues to serve until a successor is appointed and qualifies.
 - (4) A member who is appointed or reappointed after a term has begun serves only for the remainder of the term and until a successor is appointed and qualifies.
 - (5) The members of the Board appointed from the Senate of Maryland, the House of Delegates, and the Chief Judge of the Court of Appeals, shall serve in an advisory capacity only.

9-3204. Chair and vice chair.

(a) Chair. -- The Governor shall appoint the chair of the Board.

(b) Vice chair. -- With the approval of the Board, the chair may appoint a vice chair who shall have the duties assigned by the chair.

9-3205. Quorum; meetings; compensation; reimbursement for expenses.

(a) Quorum. -- A majority of the authorized membership of the Board is a quorum.

(b) Meetings. -- The Board shall meet at least quarterly each year at the times and places determined by the Board or the chair of the Board.

(c) Compensation; reimbursement for expenses. -- A member of the Board:

(1) may not receive compensation for service on the Board; but

(2) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

9-3206. Staff.

The Governor's Office of Crime Control and Prevention shall provide staff for the Board.

9-3207. Powers and duties.

(a) In general. -- The Board shall:

(1) monitor progress and compliance with the implementation of the recommendations of the Justice Reinvestment Coordinating Council;

(2) consider the recommendations of the Local Government Justice Reinvestment Commission and any legislation, regulations, rules, budgetary changes, or other actions taken to implement the recommendations of the Justice Reinvestment Coordinating Council;

(3) make additional legislative and budgetary recommendations for future data-driven, fiscally sound criminal justice policy changes;

(4) collect and analyze the data submitted under § 9-3208 of this subtitle regarding pretrial detainees;

(5) in collaboration with the Department of Public Safety and Correctional Services, the Maryland Parole Commission, the Administrative Office of the Courts, and the Maryland State Commission on Criminal Sentencing Policy, create performance measures to track and assess the

outcomes of the laws related to the recommendations of the Justice Reinvestment Coordinating Council;

(6) in collaboration with the Maryland Parole Commission, monitor administrative release under § 7-301.1 of the Correctional Services Article and determine whether to adjust eligibility considering the effectiveness of administrative release and evidence-based practices;

(7) create performance measures to assess the effectiveness of the grants administered under § 9-3209 of this subtitle; and

(8) consult and coordinate with:

(i) the Local Government Justice Reinvestment Commission; and

(ii) other units of the State and local jurisdictions concerning justice reinvestment issues.

(b) Determination of annual savings. --

(1) In collaboration with the Department of Public Safety and Correctional Services, the Board shall determine the annual savings from the implementation of the recommendations of the Justice Reinvestment Coordinating Council based on the difference between the prison population as measured on October 1, 2017, the baseline day, and the prison population as measured on October 1, 2018, the comparison day, and the variable cost of incarceration.

(2) If the prison population on the comparison day is less than the prison population on the baseline day, the Board shall determine a savings based on the difference in the prison population multiplied by the variable cost.

(3) The Board annually shall determine the difference between the prison population on October 1, 2017, and the prison population on October 1 of the current year and calculate any savings in accordance with paragraph (2) of this subsection.

(4) If a prison population decline causes a correctional unit, wing, or facility to close, the Board shall conduct an assessment to determine the savings from the closure and distribute the savings, realized annually, according to the schedule in paragraph (5) of this subsection.

(5) The Board annually shall recommend that the savings identified in paragraphs (2) through (4) of this subsection be distributed as follows:

(i) up to 50% of the savings shall be placed in the Performance Incentive Grant Fund for purposes established under § 9-3209(b)(1) of this subtitle; and

(ii) the remaining savings shall be used for additional services identified as reinvestment priorities in the Justice Reinvestment Coordinating Council's Final Report.

(c) Reports. -- At each meeting of the Board, the Secretary of the Department of Health and

Mental Hygiene, or the Secretary's designee, shall report to the Board:

(1) the number of individuals committed to the Department of Health and Mental Hygiene for treatment under § 8-507 of the Health - General Article in the previous 3 months including the number of days that it took to place each individual into treatment and where the individual was placed for treatment;

(2) the number of individuals committed to the Department of Health and Mental Hygiene for treatment under § 8-507 of the Health - General Article who are waiting for treatment but cannot be placed due to lack of capacity; and

(3) the number of individuals assessed for substance use disorder in the previous 3 months under § 5-601 of the Criminal Law Article and whether each individual was placed into treatment as a result of the assessment.

(d) Contracts or agreements with other entities. --

(1) The Board may enter into an agreement with an academic institution or another similar entity that is qualified to collect and interpret data in order to assist the Board with its duties.

(2) (i) The Board may recommend that a unit of the State enter into a contract or agreement with a public or private entity to obtain assistance or financial resources to fund and otherwise further the purposes of this subtitle, including entering into public-private partnerships, social impact bonds, and opportunity compacts.

(ii) If the Board makes a recommendation under subparagraph (i) of this paragraph, the Board shall provide written notice to the Senate Judicial Proceedings Committee, the House Judiciary Committee, and the House Health and Government Operations Committee, in accordance with § 2-1246 of the State Government Article, of the recommendation.

(iii) A unit of the State may not enter into a contract or an agreement recommended by the Board under subparagraph (i) of this paragraph until 60 days after the date of the notice provided in subparagraph (ii) of this paragraph.

(e) Advisory board. --

(1) The Board shall establish an advisory board for the purpose of including stakeholders in the criminal justice system in the analysis of the implementation of justice reinvestment initiatives.

(2) The Executive Director of the Governor's Office of Crime Control and Prevention shall appoint members of the advisory board, subject to the approval of the chair of the Board.

(3) Members of the advisory board shall include:

(i) a representative of the exclusive representative of the employees of the Division of Parole and Probation;

- (ii) a representative of the National Association for the Advancement of Colored People;
- (iii) a representative of CASA de Maryland;
- (iv) a representative of the American Civil Liberties Union;
- (v) the chair of the Criminal Law and Practice Section of the Maryland State Bar Association or the chair's designee;
- (vi) a representative of victims of domestic violence;
- (vii) a representative of victims of sexual assault;
- (viii) a representative with clinical experience and expertise in behavioral health and criminal justice;
- (ix) a representative of the Maryland Retailers Association;
- (x) a representative of an organization whose mission is to develop and advocate for policies and programs to increase the skills, job opportunities, and incomes of low-skill, low-income workers and job seekers;
- (xi) a representative of an organization whose mission is to advocate for ex-offenders; and
- (xii) a representative of the Maryland Chamber of Commerce.

9-3208. Reports to Board.

(a) Semiannual reports -- Inmate admissions information. -- Semiannually, each county, the Department of Public Safety and Correctional Services, the Maryland Parole Commission, the Administrative Office of the Courts, and the Maryland State Commission on Criminal Sentencing Policy shall collect and report data to the Board that is disaggregated by race and ethnicity in order for the Board to perform its duties under § 9-3207 of this subtitle, including data relating to:

- (1) the admission of inmates to State and local correctional facilities;
- (2) the length of inmate sentences;
- (3) the length of time being served by inmates, including suspended periods of a criminal sentence;
- (4) recidivism;
- (5) the population of community supervision;

(6) information about the inmate population, including the amount of restitution ordered and the amount paid; and

(7) departures by the court and the Commission from the sentencing limits for technical violations under §§ 6-223 and 6-224 of the Criminal Procedure Article and §§ 7-401 and 7-504 of the Correctional Services Article.

(b) Annual reports -- Pretrial detention information. -- On or before March 31 each year, each county and the Division of Pretrial Detention and Services shall report to the Board the following information for the prior calendar year regarding individuals held in pretrial detention:

- (1) the number of individuals detained pretrial on the same day each year;
- (2) the mean and median days individuals were detained in pretrial detention;
- (3) the charges under which individuals were detained in pretrial detention;
- (4) the reasons why individuals were unable to secure release;
- (5) the number of individuals who were released during the pretrial period; and
- (6) the disposition of each case.

9-3209. Performance Incentive Grant Fund.

(a) Fund established. -- There is a Performance Incentive Grant Fund.

(b) General consideration. --

(1) The purpose of the Fund is to make use of the savings from the implementation of the recommendations of the Justice Reinvestment Coordinating Council.

(2) Subject to paragraph (3) of this subsection, the Board may recommend to the Executive Director that grants be made to:

- (i) ensure that the rights of crime victims are protected and enhanced;
- (ii) provide for pretrial risk assessments;
- (iii) provide for services to reduce pretrial detention;
- (iv) provide for diversion programs, including mediation and restorative justice programs;
- (v) provide for recidivism reduction programming;

- (vi) provide for evidence-based practices and policies;
- (vii) provide for specialty courts;
- (viii) provide for reentry programs;
- (ix) provide for substance use disorder and community mental health service programs; and
- (x) provide for any other program or service that will further the purposes established in paragraph (1) of this subsection.

(3) (i) At least 5% of the grants provided to a county under this section shall be used to fund programs and services to ensure that the rights of crime victims are protected and enhanced.

(ii) The grants shall be used to supplement, but not supplant, funds received from other sources.

(4) The Governor's Office of Crime Control and Prevention shall receive from the Fund each fiscal year the amount necessary to offset the costs of administering the Fund, including the costs incurred in an agreement to collect and interpret data as authorized by § 9-3207 of this subtitle.

(c) Administration. --

(1) Subject to the authority of the Executive Director, the Board shall administer the Fund.

(2) The Executive Director may approve or disapprove any grants from the Fund.

(d) Status; accounting. --

(1) The Fund is a special, nonlapsing fund that is not subject to § 7-302 of the State Finance and Procurement Article.

(2) The State Treasurer shall hold the Fund separately, and the Comptroller shall account for the Fund.

(e) Composition. -- The Fund consists of:

(1) money appropriated in the State budget;

(2) interest earned on money in the Fund; and

(3) any other money from any other source accepted for the benefit of the Fund.

(f) Use. -- The Fund may be used only for the purposes established in subsection (b) of this section.

(g) Investments; earnings. --

(1) The State Treasurer shall invest the money of the Fund in the same manner as other State money may be invested.

(2) Any interest earnings of the Fund shall be credited to the Fund.

(h) Expenditures. -- Expenditures from the Fund may be made only in accordance with the State budget.

(i) Money expended is supplemental to other funding. -- Money expended from the Fund for programs to reduce recidivism and control correctional costs is supplemental to and is not intended to take the place of funding that otherwise would be appropriated for these purposes.

9-3210. General powers.

The Board may perform any acts necessary and appropriate to carry out the powers and duties set forth in this subtitle.

9-3211. Local Government Justice Reinvestment Commission.

(a) "Commission" defined. -- In this section, "Commission" means the Local Government Justice Reinvestment Commission.

(b) Commission established. -- There is a Local Government Justice Reinvestment Commission.

(c) Duties. -- The Commission shall:

(1) advise the Board on matters related to legislation, regulations, rules, budgetary changes, and all other actions needed to implement the recommendations of the Justice Reinvestment Coordinating Council as they relate to local governments;

(2) make recommendations to the Board regarding grants to local governments from the Fund; and

(3) create performance measures to assess the effectiveness of the grants.

(d) Membership. --

(1) The Commission consists of one member from each county appointed by the governing body of the county.

(2) The Executive Director shall appoint the chair of the Commission.

(e) Term. --

(1) The term of a member of the Commission is 4 years.

(2) The terms of the members of the Commission are staggered as required by the terms provided for members of the Commission on October 1, 2016.

(3) At the end of a term, a member:

(i) is eligible for reappointment; and

(ii) continues to serve until a successor is appointed and qualifies.

(4) A member who is appointed or reappointed after a term has begun serves only for the remainder of the term and until a successor is appointed and qualifies.

(f) Compensation; reimbursement for expenses. -- A member of the Commission:

(1) may not receive compensation as a member of the Commission; but

(2) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(g) Staff. -- The Governor's Office of Crime Control and Prevention shall provide staff for the Commission.

9-3212. Reports by Board to Governor and General Assembly.

On or before December 31, 2017, and each year thereafter, the Board shall report to the Governor and, subject to § 2-1246 of this article, to the General Assembly on the activities of the Board and the Local Government Justice Reinvestment Commission.



Report of the Justice Reinvestment Oversight Board

January 1, 2017

Larry Hogan
Governor

Boyd K. Rutherford
Lt. Governor

Daniel M. Long
Chairman, Justice Reinvestment Oversight Board

Submitted by: Governor's Office of Crime Control & Prevention

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MSAR# 10914: SB 1005/Chapter 515 of 2016, Section 16

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INTRODUCTION

The Justice Reinvestment Act (JRA or SB 1005) was passed by the General Assembly and signed into law by Governor Larry Hogan in May 2016 (Senate Bill 2005/Chapter 515 of 2016). This Act represents the most comprehensive criminal justice reform to pass in a generation. The Act establishes a Justice Reinvestment Oversight Board to oversee the reforms. Section 16 of the JRA requires the Oversight Board to report to the Governor and the General Assembly on or before January 1, 2017 on:

- “(1) the status of the progress toward the implementation of this Act; and
- (2) the projected financial impact of the implementation of this Act on local jurisdictions and correctional facilities.”

We are pleased to submit this report on these matters.

JUSTICE REINVESTMENT OVERVIEW

The United States prison population grew exponentially over the last four decades, and state officials spent an increasing share of taxpayer dollars to keep pace with soaring prison costs. Over the last decade, Maryland had achieved large declines in both its violent and property crime rates, but only modest reductions in the state prison population. Maryland still incarcerates more than 20,000 offenders, costing Maryland taxpayers \$1.3 billion in corrections spending in FY 2014.

The Justice Reinvestment Coordinating Council (‘Council’), formed by Governor Hogan and the General Assembly, began meeting in June 2015. This group was charged with further reducing the State’s incarcerated population, reducing spending on corrections, and reinvesting in strategies to increase public safety and reduce recidivism. Over the course of six meetings, the Council studied the state’s criminal justice data, reviewed research on sentencing and corrections practices, and proposed a set of policy recommendations for consideration by state leadership.

From this study, the members found:

- More than half of prison admissions (58%) were for nonviolent offenses;
- Nearly 60% of all prison admissions were because of failures on probation, parole, or mandatory release supervision, and many of these failures were due to technical violations of supervision conditions;
- Those incarcerated were spending more time in prison than in the past; and,

- Community supervision resources were not sufficiently focused on those offenders most likely to commit new crime in the future.

Many of the Council's recommendations were translated into the Justice Reinvestment Act, including the following policy changes.

Sentencing Modifications

A number of modifications were made to sentencing for property offenses, driving with a suspended license, drug offenses, and penalties for gang activity.

- The felony theft threshold was raised, penalties for theft were reduced, and enhancements were added for fifth and subsequent misdemeanor convictions.
- Driving with a suspended license for failing to pay a fine or failing to appear for trial was made non-jailable with a fine of \$500.
- Drug possession changes include lowering non-marijuana drug possession penalties and commensurate changes to marijuana possession penalties, the provision of guidance to the court to divert offenders with substance abuse disorders into treatment, and elimination of the disparity between crack and powder cocaine penalties.
- The Act allows felony drug offenders (except volume dealers and kingpins) currently serving a sentence with a mandatory minimum term to apply for retroactive reconsideration of their mandatory sentence, eliminates mandatory minimum sentences for all felony drug offenses (except volume dealers and drug kingpins), repeals the statute that allows prosecutors to double the sentence for subsequent drug offenders, unless the defendant has previously been convicted of a crime of violence, and makes third and subsequent commercial drug offenders eligible for parole after serving 50% of sentence.
- The maximum sentence for second degree murder was increased from 30 to 40 years and the sentencing range for first degree child abuse endangerment was expanded from a maximum of 40 years to imprisonment not exceeding life, when particular circumstances apply.
- The definition of gang activity was expanded and sentencing ranges and money penalties for gang activity were enhanced.

Revised Release Policies

SB 1005 requires the establishment of administrative release, when an offender is parole eligible, for certain offenders convicted of drug offenses and misdemeanor property crimes who have

satisfied specific criteria and complied with an individualized case plan. It also expands the use of diminution credits, and the use of medical and geriatric parole.

Policies to Enhance the Effectiveness of Community Supervision

The Justice Reinvestment Act contains a number of provisions to increase the effectiveness of probation and parole supervision. These provisions include:

- Case planning for state inmates using risk and needs assessment to guide programming and treatment decisions;
- Development and use of graduated sanctions to respond to technical violations using swift, certain, and proportional sanctions;
- A schedule to limit the amount of time that parolees and probationers can be returned to prison for a technical violation (which may be rebutted if a commissioner or judge finds that adhering to the limits would create a risk to public safety, a victim, or a witness);
- Use of evidence based practices;
- Expanded eligibility for earned compliance credits; and
- An allowance for individuals with certain convictions to seek expungement after 10 years.

Provisions to elevate the voices of victims of crime

- All inmates ordered to pay restitution to the victim will have 25 percent withheld of any inmate earnings for restitution; and
- 5 percent of the grants provided through the Performance Incentive Grant Fund go to victims' programs.

Oversight

In addition, the Justice Reinvestment Act required the creation of the Justice Reinvestment Oversight Board ('Board') to ensure the implementation of the provisions within the Act. The Board will meet at least quarterly to:

- Monitor progress and compliance with the implementation of SB 1005;
- Consider the recommendations of the Local Government Justice Reinvestment Commission and any legislation, regulations, rules, budgetary changes, or other actions taken to implement SB 1005;
- Make additional legislative and budgetary recommendations for future data-driven, fiscally sound criminal justice policy changes;
- Collect and analyze the data submitted as dictated by SB 1005;

- In collaboration with the Department of Public Safety and Correctional Services, the Maryland Parole Commission, the Administrative Office of the Courts, and the Maryland State Commission on Criminal Sentencing Policy, create performance measures to track and assess the outcomes of the laws related to SB 1005;
- Collaborate with Maryland Parole Commission to monitor administrative release and determine whether to adjust eligibility considering the effectiveness of administrative release and evidence-based practices;
- Create performance measures to assess the effectiveness of the grants administered through SB 1005; and,
- Consult and coordinate with the Local Government Justice Reinvestment Commission and other units of the state and local jurisdictions concerning justice reinvestment issues.

PROGRESS TOWARD IMPLEMENTATION OF THE JUSTICE REINVESTMENT ACT

The Governor's Office of Crime Control and Prevention ('Office') has spearheaded the justice reinvestment efforts in Maryland. Multiple agencies are collaborating to implement SB 1005 including the Department of Public Safety and Correctional Services, the Department of Health and Mental Hygiene, the Administration Office of Courts, the Maryland State Commission on Criminal Sentencing Policy, the Attorney General's Office, the Maryland Parole Commission, and local corrections. To assist Maryland in implementing the Justice Reinvestment Act, the Bureau of Justice Assistance, under the Office of Justice Programs at the U.S. Department of Justice, is funding implementation technical assistance provided by the Crime and Justice Institute (CJI). CJI has an extensive history with justice reinvestment, having worked with ten states on the policy development and legislative phase and currently providing implementation technical assistance in four states.

Work is underway to implement the policies within SB 1005, the Oversight Board has been appointed, the studies required by the Act are nearing completion, and work has begun on ensuring there are performance measures in place to monitor the impact of the Act.

Department of Public Safety and Correctional Services - Policy Implementation

Under the leadership of the Division of Correction (DOC), progress is being made on the revised release policies. DOC has a Diminution Credit Innovation Team (an implementation team) that is setting up a process to identify offenders who are eligible for diminution credits and how many credits the eligible offenders are allowed to obtain. To accomplish this, the Innovation Team is developing a screening tool to determine the offender's eligibility for diminution credits. The team has recommended that there be an indicator, or flag, in the case file to keep track of the diminution eligibility for each inmate. Additionally, the Diminution Credit Innovation Team has

begun to identify jobs and programs that can be awarded diminution credits and how many credits each program is worth. There is another group of staff assigned to a Medical Geriatric Parole Innovation Team that is investigating who is responsible for funding the examinations that determine medical parole eligibility as the inmate is not responsible for this cost. DOC's Administrative Release Innovation Team has worked with the Director of Policy and Regulations to ensure the policies will be accurately portrayed in Maryland's Code of Regulations. This team is currently developing a process to identify eligibility for administrative release, and has been in communication with the Chair of the Maryland Parole Commission on the administrative release policies and procedures.

Much progress is being made on the implementation of the policies intended to improve the effectiveness of community supervision. The Division of Parole and Probation (DPP) has detailed plans to ensure each policy is implemented in accordance with evidence based practices and the Division is working on information technology changes to support the staff to implement the new policies. Examples of progress to date include the drafting of a graduated responses matrix and policy which has been shared with the Judiciary for feedback; completed drafts of the application for a Certificate of Rehabilitation and certificate itself; and, the selection of a risk and needs assessment, rollout of training on the assessment, and the start of the development of the case plan to drive the interactions of probation agents and offenders

Department of Health and Mental Hygiene - Policy Implementation

The Department of Health and Mental Hygiene has begun considering how the Behavioral Health Administration can meet the requirements and timeframes of SB 1005 regarding court referrals for substance abuse evaluation and treatment under §§ 8-505 and 8-507 of the Health-General Article. As part of these discussions, DHMH has pulled data and is looking at the process to facilitate substance abuse treatment for court involved individuals. DHMH did receive a 50% increase (\$3 million) in fiscal year 2017 to increase capacity for §§ 8-505 and 8-507 evaluations and treatment. Further, it expects that the change from block grants to fee-for-service billing for substance use disorder treatment will result in greater efficiencies and savings. The Department has also been working on parts of the following reports required by the Justice Reinvestment Act: the Report of the Collateral Consequences Workgroup; the Local Jail Budgetary Report; and the Substance Use and Mental Health Disorders Gaps and Needs Analysis Report.

Oversight Board Appointments

To help guide implementation, Governor Hogan announced the appointments to the Oversight Board on December 20, 2016, and the group is scheduled to meet on January 4, 2017. The appointed members are:

- Judge Daniel M. Long, Chair—Appointed by the Governor
- Senator Michael Hough, District 4, Frederick and Carroll Counties—Appointed by the President of the Senate
- Delegate Kathleen Dumais, District 15, Montgomery County—Appointed by the Speaker of the House
- V. Glenn Fueston Jr., Executive Director, Governor’s Office of Crime Control & Prevention—designated by the JRA
- Patricia Goins-Johnson, Department of Public Safety and Correctional Services—designee of the Secretary of Public Safety and Correctional Services
- John R. Greene Jr., Maryland Parole Commission—designee of the Chair of the Maryland Parole Commission
- Major Roland Butler, Maryland State Police—designee of the Secretary of the Maryland State Police
- David Eppler, Office of the Attorney General—designee of the Attorney General
- Paul DeWolfe, Office of the Public Defender—designated by the JRA
- Secretary David Brinkley, Department of Budget and Management—designated by the JRA
- Barbara Bazron, Department of Health and Mental Hygiene—designee of the Secretary of Health and Mental Hygiene
- Robert L. Green, Montgomery County Department of Correction and Rehabilitation—Chair of the Local Government Justice Reinvestment Commission, designated by the JRA
- Chief Judge John Morrissey, District Court of Maryland—Appointed by the Chief Judge of the Court of Appeals
- Judge Kathleen Gallogly Cox, Baltimore County Circuit Court—Appointed by the Chief Judge of the Court of Appeals
- Constance Parker, Department of Labor, Licensing and Regulation—designee of the Secretary of Labor, Licensing and Regulation
- Sheriff Jim Dewees, Carroll County—Appointed by the Maryland Chiefs of Police Association and the Maryland Sheriffs’ Association

- Scott Shellenberger, State's Attorney, Baltimore County—President of the Maryland State's Attorneys' Association, designated by the JRA
- Terry Kokolis, Anne Arundel County Department of Detention Facilities—Appointed by the President of the Maryland Correctional Administrators Association as a representative of a large county correctional facility
- Douglas C. Devenyns, Talbot County Detention Center—Appointed by the President of the Maryland Correctional Administrators Association as a representative of a small county correctional facility
- Councilman Jamel R. (Mel) Franklin, Prince George's County—designee of the President of the Maryland Association of Counties
- Russell Butler, Maryland Crime Victims' Resource Center—Victim's Representative, Appointed by the Governor
- Kevin Davis, Police Commissioner of the Baltimore Police Department—Law Enforcement Representative, Appointed by the Governor
- Jinlene Chan, Anne Arundel County Department of Health—Local Health Officer, Appointed by the Governor
- Lori Brewster, Wicomico County Health Department—Local Health Officer, Appointed by the Governor
- Perthean Toins-Banks, Department of Labor, Licensing and Regulation—Direct Experience Teaching Inmates, Appointed by the Governor

Required Studies

The Justice Reinvestment Act required several studies be completed and submitted on or before the end of 2016, including:

- A study of the state's restitution and victim services processes;
- A study of organized retail theft;
- An analysis by local correctional facilities, in coordination with the Department of Health and Mental Hygiene and local health departments to determine the budgetary requirements of the Act;
- An employment study to identify potential barriers to employment, licensing, and entrepreneurship for individuals with a criminal record;
- A study to identify best practices for criminal referrals to mediation; and,
- An analysis to determine the gap between offender treatment needs and available services in the state.

Each of the reports is on track for completion.

Performance Measurement

SB 1005 established semiannual data collection and reporting requirements for each county, the Department of Public Safety and Correctional Services, the Maryland Parole Commission, the Administration Office of Courts, and the Maryland State Commission on Criminal Sentencing Policy. The data are to be reported to the Board.

In conjunction with CJI, the Office compiled a list of performance measures, including those specifically outlined in SB 1005, to measure each of the Justice Reinvestment Act policies. The Office shared the list with the Director of the Governor's Office of Performance Improvement and together they will create data definitions to ensure all jurisdictions will be collecting the same type of data where possible. With all of the local jurisdictions needing to collect data without a uniform data system, the Office is in the process of collaborating with the local jurisdictions to create a uniform way to collect and report justice reinvestment data with consistency and reliability.

JUSTICE REINVESTMENT AND LOCAL JURISDICTIONS AND CORRECTIONAL FACILITIES

To examine the projected impact the Justice Reinvestment Act may have on local jurisdictions and correctional facilities, the Office conducted analyses to determine the budgetary requirements of implementation of the legislation on the local correctional facilities. In collaboration with the Maryland Correctional Administrators Association, the Department of Health and Mental Hygiene, and Maryland Association of Counties, along with a local health officer, the Office identified the nine policies in the Justice Reinvestment Act that would most likely impact local jurisdictions and correctional facilities. The Office (through the Maryland Correctional Administrators Association) sent a survey to each local correctional facility requesting responses to a series of questions related to each of the policies identified. Eight out of 23 facilities responded.

The preliminary estimate on how various provisions of the Justice Reinvestment Act would impact local correctional facilities is outlined in the Justice Reinvestment Jail Budgetary Report. Anticipated impacts include the following:

- Many offenders will have shorter lengths of stay in jail while some new offenders who were previously sentenced to the State Division of Correction may now be sentenced locally.

- The technical revocation caps, the increase in good conduct credits, elimination of jail time for some driving while suspended crimes, and administrative release may reduce the population of local correctional facilities.

It is unknown the extent the sentencing changes to possession of controlled dangerous substance and theft-related offenses will impact local correctional facilities. The actual cost or savings to each county will depend on how the inmate population changes and the *per diem* cost for an inmate, which varies for each county.

NEXT STEPS

Moving forward, the implementation of the Justice Reinvestment Act is expected to intensify as the majority of policies go into effect on October 1, 2017. Not only will internal policies have to be created and updated, but training, communication, and quality assurance processes around these policies will be needed. Concurrently, the technological infrastructure and procedures to collect and report on implementation progress and overall outcomes associated with the Act will need to be put in place. With support from the Governor and leaders within the General Assembly and Judiciary, the coordination of the Office, guidance of the Oversight Board, and the ongoing commitment at the agency level, Maryland will be well on its way to achieving the goals of the Justice Reinvestment Act.