JUSTICE REINVESTMENT INITIATIVE

CHAPTER 515
JUSTICE REINVESTMENT ACT
THE HEADLINES

Hogan signs bill to overhaul Maryland criminal justice system

Maryland criminal justice reform: a step in the right direction

How Maryland came to repeal mandatory minimums for drug offenders

Justice Reinvestment Act heading in the right direction
WHAT IS THE JUSTICE REINVESTMENT INITIATIVE?

Justice Reinvestment Initiative (JRI) is a data-driven approach to:

• Improve public safety by reducing recidivism
• Use criminal justice resources more effectively
• Reinvest in programs, services, and treatment proven to reduce likelihood of re-offense and improve offender outcomes.
HOW DO WE REFORM OUR CRIMINAL JUSTICE SYSTEM IN MARYLAND?
58% of Admissions Are for Nonviolent Crimes

Source: The Pew Charitable Trusts
JRCC FINDINGS

Average Sentence Length Grew Across All Offense Types

Source: The Pew Charitable Trusts
JRCC FINDINGS

29% Increase in Average Sentence Length for Revoked Probationers

Source: The Pew Charitable Trusts
The Justice Reinvestment Coordinating Council made 19 recommendations that were submitted to Governor Hogan and the Maryland General Assembly.

1. Revise drug possession penalties to maximize recidivism reduction
2. Require prompt placement in residential drug treatment beds
3. Eliminate disparity between crack and powder cocaine penalties
4. Raise the felony theft threshold and concentrate longer prison terms on higher-level theft offenders
5. Expand in-prison good behavior and program incentive credits
6. Retroactive application of the mandatory minimum safety valve
7. Expand alternatives to incarceration in the sentencing guidelines and include suspended sentences in calculating guideline compliance
8. Identify best practices in alternative dispute resolutions
9. Use a validated risk and needs assessment tool to determine supervision levels
10. Use swift, certain, and proportional sanctions for violations of probation and parole
11. Establish evidence-based standards for supervision practices
12. Strengthen the earned compliance credits program
13. Streamline parole and focus parole hearings on serious, violent offenders and on non-compliant nonviolent offenders
14. Expand eligibility for geriatric parole
15. Expand the use of medical parole
16. Establish a certificate of completion for offenders who successfully complete supervision
17. Make certain first-time, minor traffic offenses non-jailable
18. Establish a performance-incentive county grant program
19. Establish an oversight council and track performance
MARYLAND AND THE JUSTICE REINVESTMENT INITIATIVE

In furtherance of the nationwide Justice Reinvestment Initiative, Maryland passed the Justice Reinvestment Act (JRA) Chapter 515 of 2016. The Justice Reinvestment Act represents the most comprehensive criminal justice reform to pass in a generation.

Major Provisions of the JRA
• Focuses prison beds on serious, repeat offenders
• Emphasizes treatment for those struggling with addiction
• Elevates the voices of victims of crime
• Strengthens community supervision
• Expands opportunity for ex-offenders
• Establishes oversight mechanisms to ensure reforms are followed

The provisions of the Act involving crimes, corrections, and the courts are effective October 1, 2017.
JRA – Boards

(1) Justice Reinvestment Oversight Board
   • 25-member board
   • Includes two members representing local correctional facilities
   • Performance Incentive Grant Fund

(2) Advisor Board to the Justice Reinvestment Oversight Board
   • 12-member board
   • Created for the purpose of including stakeholders in the criminal justice system in the analysis of the implementation of justice reinvestment initiatives
   • Provides advice to the Oversight Board

(3) Local Government Justice Reinvestment Commission
   • 24-member board consisting of one individual from each county
JRA – Local Commission
– Statutory Duties

STATE GOVERNMENT ARTICLE, ANNOTATED CODE OF MARYLAND
9-3207.
(A) THE (JUSTICE REINVESTMENT OVERSIGHT) BOARD SHALL:
   (8) CONSULT AND COORDINATE WITH:
      (I) THE LOCAL GOVERNMENT JUSTICE REINVESTMENT COMMISSION;
      (II) OTHER UNITS OF THE STATE AND LOCAL JURISDICTIONS CONCERNING JUSTICE
           REINVESTMENT ISSUES.

9-3211.
(C) THE (LOCAL GOVERNMENT JUSTICE REINVESTMENT) COMMISSION SHALL:
   (1) ADVISE THE (OVERSIGHT) 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 (OVERSIGHT) BOARD REGARDING GRANTS TO LOCAL
       GOVERNMENTS FROM THE FUND; AND
   (3) CREATE PERFORMANCE MEASURES TO ASSESS THE EFFECTIVENESS OF THE GRANTS.
Local Jail Pretrial

Justice Reinvestment Act Local Jail Pretrial Data Dashboard

Length of Stay Category

Reason for not Securing Release

Prettrial Detention Population 5113

Prettrial Detention Population by Jurisdiction

Charge Category

Count of Charge Category

Case Disposition

County

Average of Length of Stay

Median of Length of Stay

Allegany 146.09 56
Anne Arundel 91.16 60
Baltimore City 108.94 94
Calvert 65.71 48
Caroline 123.02 106
Cumberland 70.50 59
Cecil 104.94 79
Charles 162.98 81
Frederick 107.67 76
Garrett 107.35 101
Harford 102.65 55
Howard 105.50 53
Kent 91.33 74
Montgomery 204.83 107
Prince George’s 153.50 89
Queen Anne’s 56.45 22
St. Mary’s 87.06 46
Talbot 71.81 48
Washington 106.09 74
Wicomico 312.87 187

Total 122.35 74
Local Detention Gaps and Needs

Pursuant to Section 5 of the Justice Reinvestment Act, the Governor’s Office of Crime Control & Prevention requested data primarily from four entities in the State to answer three research questions:

1. What is the prevalence of substance use disorder/mental illness among offenders involved in the criminal justice system?

2. What is the availability of treatment to this population?

3. What are the challenges exist to providing adequate treatment to this population?
Local Detention Gaps and Needs

Substance Use and Mental Health Disorder Gaps and Needs Analysis

Local Detention Centers

Two electronic surveys were disseminated to all 23 local detention centers in the state. The purpose of these surveys was to determine inmates’ treatments needs and available treatment services within the local detention centers. One survey addressed substance use disorder and the other addressed mental health. Survey questions sought information related to:

- The jail’s maximum bed capacity and average daily population
- The number of inmates diagnosed with substance use disorder and mental illness
- The number of inmates diagnosed with co-occurring disorders
- The types of substance use disorder and mental health assessments conducted at intake
- The number of substance use disorder and mental health treatment beds available
- The types of treatment provided for inmates with substance use disorder and mental illness
- The steps taken to connect an inmate with a substance use disorder or mental illness to treatment services prior to their release into the community
Local Detention Gaps and Needs Findings

Prevalence of Substance Use Disorder and Mental Illness in the Local Jails

The prevalence of substance use disorder and mental illness inside local detention centers appears to be a widespread issue.

Substance Use Disorders and Mental Health Screening

Very few local detention centers have a formal screening assessment for substance use disorder. It is most likely determined through an interview with the inmate at intake.

Number of Substance Use Disorder and Mental Health Treatment Beds Available

Seven of the 19 jails reported having specific substance use disorder treatment beds totaling over 200 beds. Five of the 19 jails responded that they have beds for inmates with a mental health disorder totaling over 180 beds and are at about 80% capacity.

Types of Substance Use Disorder and Mental Health Treatment Provided at Local Detention Centers

While not all local detention centers have specific treatment beds available for inmates with substance use or mental health disorders, a variety of treatment is provided to these individuals while in custody.

Pre-Release Services for inmates with a substance use disorder or mental illness - Local Jails

Most facilities provide case management services, discharge plans, or individualized treatment plans for the inmates while the individual is incarcerated to facilitate the transition from detention to community.
Local Jails – JRA
Budgetary Impact

Pursuant to Section 17 of the Justice Reinvestment Act, an analysis was conducted to determine the budgetary requirements of this Act. The Governor’s Office of Crime Control & Prevention estimated how nine policies/provisions would impact the inmate population at local detention centers.

<table>
<thead>
<tr>
<th>Policy Description</th>
<th>Impact</th>
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<tbody>
<tr>
<td>Reduction in controlled dangerous substance possession sentences</td>
<td>SLIGHT DECREASE OR SLIGHT INCREASE</td>
</tr>
<tr>
<td>Third and subsequent controlled dangerous substance felony offenders must serve 50% of sentence (not 25%) before parole eligibility</td>
<td>NO IMPACT</td>
</tr>
<tr>
<td>Elimination of jail time for driving with a suspended license for failing to pay a fine or failing to appear for trial</td>
<td>DECREASE</td>
</tr>
<tr>
<td>Revocation caps for technical violations of parole or probation</td>
<td>DECREASE</td>
</tr>
<tr>
<td>Increase in felony theft thresholds and a reduction in theft-related sentences</td>
<td>MINOR INDETERMINATE IMPACT</td>
</tr>
<tr>
<td>New administrative release provision after serving one-fourth of a sentence for drug and theft-related provisions</td>
<td>DECREASE</td>
</tr>
<tr>
<td>Mandator withholds of 25% of inmate’s earnings if there is a restitution order</td>
<td>INDETERMINATE IMPACT</td>
</tr>
<tr>
<td>Increase from 5 to 10 days good conduct credits for non-violent offenders at local correctional facilities</td>
<td>DECREASE</td>
</tr>
<tr>
<td>State reimbursement of $45 for local jails providing pre-releases services for State Division of Correction inmates</td>
<td>NO IMPACT</td>
</tr>
</tbody>
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Local Detention Impact

Moving forward, it is the responsibility of each local warden and the warden’s staff to monitor stringently their facility jail population, and send population data as required to the Governor’s Office of Crime Control & Prevention as well as the Justice Reinvestment Oversight Board, and document any expected or unexpected shifts in population.

We would expect and recommend that the Local Government Justice Reinvestment Commission closely monitor the data from the local correctional facilities to determine the impact of the Justice Reinvestment Act on local correctional facilities and make appropriate recommendations for changes if warranted.
History/Background of 8-505 and 8-507 Services

• Health-General Article, §§ 8-505 and 8-507 were initially enacted in 1989 and revised in 2007 to allow court ordered treatment as an alternative to jail.

• Effective October 1, 2017, as a part of the 2016 Justice Reinvestment Act, MDH will be required to place individuals in court-ordered treatment immediately.

• H-G § 8-505 – Assessment

• H-G § 8-507 – Order for treatment

• Governor Hogan has increased funding by $4.5 million to a total of $10.5 million. Available treatment slots have more than doubled in two years to 245 slots at any one time.
JRA IN ACTION

§ 8-505 and § 8-507 Process

Defendant Driven

Arrest
- Pretrial
- Sentencing

Motion for Assessment by Defendant

BHA initiates clearance for warrants/detainers in other courts by contacting Public Safety (DOC/Local Jails).

Assessment Ordered - 8.505

NO - SUD

Stays in Jail or on Bond

YES - ASAM / LOC Determined

Placed

BHA initiates clearance for warrants/detainers in other courts by contacting Public Safety (DOC/Local Jails).

Placed on Admission List

Motion filed for Treatment

BHA initiates clearance for warrants/detainers in other courts by contacting Public Safety (DOC/Local Jails).

Judge Orders Treatment Pursuant to LOC - 8.507

BHA initiates clearance for warrants/detainers in other courts by contacting Public Safety (DOC/Local Jails).
The Governor's Office of Crime Control is working to develop a comprehensive list of performance measures which will be used to measure the impact of various JRA reforms and policies.

Measures will be requested from the following agencies:

- Department of Public Safety & Correctional Services
- Administrative Office of the Courts
- Department of Health & Mental Hygiene
- Maryland State Commission on Criminal Sentencing Policy
- Department of Budget and Management
- Local detention centers
JRA LOOKING AHEAD

Victims

- Coordinate with various agencies to study the current restitution process to determine how to better collect restitution
- 5% of the grants provided through the Performance Incentive Grant Fund go to victims’ programs
- All inmates ordered to pay restitution to the victim will have 25 percent withheld of any inmate earnings for restitution
JRA – PERFORMANCE INCENTIVE GRANT FUND

Annually the JRI Oversight Board determines savings based on reduction in prison population from the prior year.

If a State prison or part of a State prison closes, the Oversight Board must determine the savings from the closure.

Division of savings
• 50% to Performance Incentive Grant Fund
• 50% to additional services as identified in JRCC Report

JRI Oversight Board administers the Performance Incentive Grant Fund, with the Executive Director of the Governor’s Office of Crime Control and Prevention being the final arbiter on awards.

At least 5% of a grant to a county must go toward protecting and enhancing victims’ rights.
JRA IMPACT AND SAVINGS

Maryland Projected Prison Population, FY17 - FY26

Source: Pew Charitable Trusts

10-Year Savings - $80.5 million in savings/averted costs, and $45 million in realized savings
The following reports are available on the Governor’s Office of Crime Control & Prevention’s website under Justice Reinvestment Act:

http://goccp.maryland.gov/councils-commissions-workgroups/justice-reinvestment/

Report on Organized Retail Theft – December 1, 2016
Report on Restitution Study – December 1, 2016
Budgetary Requirements on Location Detention Centers – December 31, 2016
Substance Use and Mental Health Disorder Gaps and Needs Analysis – December 31, 2016
Justice Reinvestment Oversight Board Initial Report – January 1, 2017
Questions?