

# MARYLAND ALLIANCE FOR JUSTICE REFORM

Working to end unnecessary incarceration and build strong, safe communities



## Parole Violations

### What's the problem?

A technical violation of parole, by definition, occurs when an individual with a suspended sentence violates a lesser rule of probation—not a violation involving a new offense or forbidden contact with a victim. Examples include missing a restitution payment, being late to see a probation agent, or use of marijuana. Unfortunately, many Maryland judges issue no-bail arrest warrants” for every violation of parole, technical or not. This means that individuals sit for weeks or months in the local detention center before trial. The Maryland Rule that guide judges’ conduct ([see Rule 4-347c](#)) currently permits this harsh customary practice, which may result in the loss of employment or housing, as well as damaging ties to families.

After extensive review of Maryland courts’ sentencing data, statistics from Maryland prisons, and evidence-based research from across the U.S., Maryland’s Justice Reinvestment Council found:

More than half ([58 percent](#)) of [Maryland] prison admissions had underlying nonviolent offenses, including offenders sentenced directly from court and those sent to prison from community supervision.

Almost [60 percent](#) of all prison admissions represent failures of probation, parole, or mandatory release supervision. Many of these failures are due to technical violations of the conditions of supervision, like missing an appointment or failing a drug test, rather than to a new criminal conviction.

Research demonstrates that for many offenders, including drug offenders, supervision violators, and first-time offenders, incarceration can increase recidivism when compared with noncustodial sanctions. There is also a growing consensus in criminological research that adding months and years onto prison stays has little or no impact on recidivism. The Council noted that despite this research, offenders in Maryland are spending *23 percent longer* behind bars—seven additional months on average—than they were a decade ago. This increase in time served is largely due to longer sentences handed down from the courts (up 25 percent).

### What's the Proposal?

As of its effective date on 10/1/2017, Maryland’s Justice Reinvestment Act (JRA) requires trial judges to limit sentence lengths imposed for “technical violations of probation” to 15 days for a first offense, 30 days for a second, and 45 days for a third. Studies show that such brief sentences may be more effective in preventing future trouble than a longer sentence. While JRA does permit judges to order a longer penalty for some technical violations, the law requires that they do so only after the opportunity for a hearing and after specifying exceptional circumstances that make a stiffer sentence appropriate.

While there is no doubt that a sentencing judge generally and at a violation of probation must be permitted to exercise great discretion, Rule 4-347 as currently drafted permits judges categorically to issue no-bail warrants for every type of violation of probation and ostensibly to prevent or to delay bail review hearings until the issuing judge makes himself available. The proposed amendment to Rule 4-347c – supported by MAJR, Maryland’s Public Defender Paul DeWolfe, and Stuart Simms, former State’s Attorney for Baltimore and former Maryland Public Safety Secretary – calls on the Maryland Court of Appeals to give full effect to JRA’s technical violation of parole requirements and to stop judges from issuing “no-bail arrest warrants” that in effect impose overlong sentences even before a fair hearing can be held.

As stated in their letter to Maryland’s Judicial Rules Committee, the intent of this change is “to ensure that Maryland judges do not either deliberately or inadvertently violate defendants’ statutory rights and our state’s

newly-enacted public policy for corrections...To remove Maryland Rule 4-347's conflict with the Justice Reinvestment Act as to technical violations of probation, and to encourage our Courts to apply Maryland's evidence-based public policy, we strongly encourage the Rules Committed to recommend appropriate changes."

### **Will this work?**

A 2017 survey by The Marshall Report notes that "in the current era of criminal justice reform, states have differed in their attempts to incarcerate fewer technical violators. Some have done nothing, while others are implementing a variety of less punitive sanctions for parolees or capping the number of days they can be incarcerated for." For example, The Pew Charitable Trusts documents benefits from a 2007 Louisiana law that caps time spent in prison by first-time parole violators to 90 days, resulting in a 22 percent decrease in new crimes and over \$17 million in savings.

### **Status of the Legislation**

The Justice Reinvestment Act, passed in 2016, has fully taken effect as of October 2017. Maryland's Justice Reinvestment Coordinating Council [found](#) that more than 20% of all prison commitments resulted from violation of probation and 40% of that group resulted only from "technical violations of probation." Seeking to resolve this, the General Assembly in the Justice Reinvestment Act in 2016 limited the sentence judges could impose for violations of probation to 15, 30 or 45 days for a first, second or third technical violation.

But, this Justice Reinvestment Act provision [does not prevent judges](#) from continuing with the common practice by many of issuing "no-bond bench warrants" for every violation of probation so that each of their violation defendants may be required to spend every day in detention until violation trial date. The result could be months of detention despite the 15, 30 and 45 day JRA limits. [SB 879/HB 1157](#) makes clear that this practice may not continue and that all judges must respect the JRA limits on technical violations. Unfortunately this bill was not released for a vote by [Senator Bobby Zirkin](#), Chair of the Judicial Proceedings Committee.

At [a recent meeting](#) of the Justice Reinvestment Oversight Board, Joseph Clocker of the Division of Parole and Probation reported that his office has four major challenges in programs and policies. One of these, "Graduated Sanctions," was explicitly spelled out in the Justice Reinvestment Act, [Section 6-121](#). This was the biggest effort of his division. He emphasized that they were working on a "matrix of sanctions" that defined minor, intermediate, and technical violations.

### **Learn More!**

["The Effects of Prison Sentences on Recidivism"](#), Paul Gendreau and Claire Goggin, Centre for Criminal Justice Studies, University of New Brunswick, and Francis T. Cullen, Department of Criminal Justice, University of Cincinnati, 1999

["Psychological Effects of Long Term Incarceration"](#), Chrystal Garcia, University of California, Merced

["The Effect of Prison Sentence Length on Recidivism"](#), Michael Roach, Max Schanzenbach, 2015

["Should we send offenders back to prison for technical violations?"](#) Site administrator, CrimeinAmerica.Net

[At Least 61,000 Nationwide are in Prison for Minor Parole Violations](#), Eli Hager

[Reducing Incarceration for Technical Violations in Louisiana](#), a brief from the Pew Charitable Trust

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*The Maryland Alliance for Justice Reform (MAJR) is a nonpartisan association of over forty community organizations and churches with members in every part of the state, formed to support justice reinvestment. Individual supporters include judges, attorneys, corrections professionals, as well as returning citizens, victims, and service providers.*