



## Senate Bill 1005

### *Justice Reinvestment Act*

MACo Position: **SUPPORT**  
**WITH AMENDMENTS**

Date: April 5, 2016

To: Judiciary Committee

From: Natasha Mehu

The Maryland Association of Counties (MACo) **SUPPORTS SB 1005 WITH AMENDMENTS.**

A strong and coordinated effort to reform criminal laws and reassess the best options for nonviolent offenders presents an opportunity to improve justice, reduce taxpayer costs, and improve availability of treatment offerings. MACo endorses these objectives.

**MACo strongly prefers and supports the product of the House's deliberations, passed in HB 1312. MACo urges the Committee to conform SB 1005 to that bill, and to remain strong in an anticipated conference committee on the differing principles.**

MACo appreciates the time and effort invested in Maryland's Justice Reinvestment Initiative that has culminated in this omnibus legislation. The following concerns are raised in an effort to ensure justice reinvestment is implemented in a manner that allows the state to reach its goals effectively without unintended costs and consequences that may undermine the benefits.

#### **Drug Treatment and Evaluations**

SB 1005 contains provisions that would authorize the court to order evaluations, assessments, and treatment for individuals convicted of certain drug offenses. Treatment may be ordered either in the community or within a correctional facility, depending on the threat the defendant poses to the community. This is an important provision for ensuring people who need treatment are provided treatment and are not unnecessarily incarcerated.

However, SB 1005 does not provide the necessary resources or funding to implement the treatment requirements. Rather it explicitly imposes an unfunded mandate on local correctional departments and local health departments to provide the mandated treatment.

Access and availability to treatment in communities across the state is severely lacking. In rural areas, this is particularly acute as there is a lack of private providers and the already limited services that local health departments can provide are being further limited or cut due to changes in state funding.

Local jails lack the resources and capacity to provide treatment behind bars. Most do not have licensed treatment providers on-site and the very few that do, have a limited number of beds. There is concern they would not be able to meet the demand - which could be significant, given the number of individuals arrested for drug offenses.

Without additional resources it will be difficult to meet the requirements when the bill takes effect. Correctional facilities and health departments would face the same barriers and challenges for access to treatment currently being experienced across the state. Funding will be required to secure treatment and ensure the goals of this provision are not frustrated by lack of treatment slots and a demand that exceeds

capacity. A reliable “back end” plan for treatment offerings is an essential part of any bill that moves forward for Maryland.

### **Reinvestment and Gaps in Resources**

MACo appreciates the efforts put forward to provide local governments with a portion of the savings generated from this initiative by creating a performance incentive grant fund. Reinvestment, particularly into local programs that are expected to provide services and support to individuals who are released or diverted from incarceration as a result of the bill, is crucial to the success of the initiative. Without reinvestment, the current capacity for services - which is already stressed - would not be able to meet the increased need. Counties are concerned that the grant fund, which will be helpful along the line, will not be sufficient to meet immediate needs.

It is estimated that this bill could generate \$247 million in savings for the State over a 10-year period. But this is conditioned on the many pieces of the bill falling into place and performing as expected. As the grant fund is predicated on “savings,” the money would not be readily available. There will be a gap where local jails and community programs will need resources to comply with the provisions as they go into effect.

MACo believes these concerns can be mitigated by ensuring the Justice Reinvestment Oversight Board report to the Governor on the status of the progress toward the implementation of this Act; and the projected financial impact of the implementation of this Act on local jurisdictions and correctional facilities. MACo hopes that the addition of this reporting, coupled with the local treatment gap analysis requirement under Section 2 would help illuminate areas of need and generate recommendations to fill those gaps before any savings can be generated and reinvested into local jails.

### **Justice Reinvestment Oversight Board**

MACo also seeks additional representation on the Justice Reinvestment Oversight Board. SB 1005 allows for two representatives from the Maryland Correctional Administrators Association (MCAA) however they must be chosen by the Governor with consent of the Senate. It does not include a representative from MACo. These associations should be represented and should have the authority to choose their representatives. It is important to ensure the representatives are active members and able to effectively represent the best interest of the associations.

### **Per Diem**

Counties want to ensure that local jails are fairly compensated for the potential influx of inmates sentenced to local jails for 12-18 months of incarceration, and for those sentenced to state prison but confined in local facilities. The per diem in each of these scenarios is \$45 per day. MACo suggest this reimbursement rate be revisited given the additional programming and service requirements for inmates.

### **Conclusion**

Counties raise these concerns and seek to have these issues addressed in order to ensure that state costs and responsibilities are not shifted to locals in a manner that may undermine the bill. MACo supports the Justice Reinvestment undertaking and hopes the Committee can come to a resolution to meet the goals it sets to achieve in a manner that is financially and operationally feasible.

For these reasons, MACo urges a **FAVORABLE WITH AMENDMENTS** report on SB 1005. County governments and corrections professionals stand ready to contribute to the Committee’s work toward this shared goal.