



DeWolfe: Subject minor offenders to fines, not jail

'De-carceration' would reduce public defenders' caseloads, report states

By: Steve Lash Daily Record Legal Affairs Writer ◉ November 13, 2017

The "prohibitively high" caseloads of Maryland's public defenders could be significantly reduced – at least in district court — if the state's lawmakers continue to decriminalize minor offenses, as they did by making possession of less than 10 grams of marijuana a civil offense, the state's Office of the Public Defender stated in a recent report.

Specifically, the office's 2017 annual report calls on the legislature to make punishable by at most a fine such jailable offenses as theft under \$100 (90 days in jail), trespassing (90 days), disturbing the peace (60 days), driving without insurance (one year), malicious destruction of property under \$1,000 (60 days), failure to send a child to school (10 days) and driving without a license (60 days).

Under Maryland law, indigent defendants have a right to be represented by a public defender for any crime punishable by a jail sentence. The minor offenses, tried in district court, account for more than 32,000 public-defender cases annually, stated the report released this month.

Thus, if the potential for incarceration were removed, caseloads could be reduced, Maryland Public Defender Paul B. DeWolfe said Monday.

"There's a national trend to not only decriminalize but to de-carcerate," DeWolfe said.

"For many of these low-level offenses, people are generally not incarcerated anyway," he added, citing trespassing and driving without a license. "It's common sense to decriminalize or at least remove the potentiality for a jail sentence."

Senate Judicial Proceedings Committee Chair Robert A. "Bobby" Zirkin said Monday that his panel "will take a look at these issues as they relate to public safety, their effect on the community."

"I certainly agree that public defenders' caseloads are very high and we need to continue to work on that," said Zirkin, D-Baltimore County. "(But) we're not going to decriminalize simply because it makes things less burdensome on the public defender."

Excessive caseloads has been a perennial concern of the public defender's office, with too few attorneys being called upon to handle too many cases as determined by a standard set in a 2005 study, the Maryland Attorney and Staff Workload Assessment. The assessment was conducted by the public defender's office with the assistance of the National Center of State Courts.

Applying these standards, public defenders are overworked in all Maryland circuit courts except for those in Baltimore city and Montgomery County, according to the report. At the district court level, public defenders have excessive caseloads on the Eastern Shore and Anne Arundel, Montgomery and Prince George's counties, the reported stated.

In 2016, Maryland public defenders handled 185,766 cases in state district and circuit courts, according to the report.

"Decriminalization efforts are beginning to bear fruit in terms of reduced misdemeanor caseloads," DeWolfe wrote. "The savings to the taxpayers of Maryland if this approach continues are obvious. Removing jail penalties for minor



Maryland Public Defender Paul B. DeWolfe (File)

transgressions could further reduce workloads to an extent that would bring many of our district court caseloads within or below standards.”

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