



Minutes

Maryland State Commission on Criminal Sentencing Policy Videoconference February 24, 2025

Commission Members in Attendance:

Honorable Dana M. Middleton, Chair
Honorable J. Sandy Bartlett
Rodney R. Davis
Honorable Brian L. DeLeonardo
Richard A. Finci, Esq.
Matthew Fraling, *representing Public Defender Natasa Dartigue*
Richard E. Gibson
Angelina Guarino, *representing Secretary Carolyn J. Scruggs*
Robert H. Harvey, Jr., Esq.
Larry Johnson
Alethea P. Miller
Honorable Michelle R. Saunders
Kyle E. Scherer, Esq.
Honorable Melanie M. Shaw
Senator Charles E. Sydnor, III
Senator Christopher R. West

Staff Members in Attendance:

Sarah Bowles
Julia Caspero
Stacy Najaka, Ph.D.
Anabella Nosel
Katharine Pembroke
David Soulé, Ph.D.

1. Call to order

The Maryland State Commission on Criminal Sentencing Policy (MSCCSP) Chair, Judge Dana M. Middleton, called the meeting to order.

2. Declaration of quorum

The meeting began at 12:03 p.m. when attendance reached a quorum.



3. Approval of Minutes

The minutes from the December 3, 2024, public comments hearing, December 3, 2024, business meeting, and January 7, 2025, business meeting were approved as submitted.

4. Review of House Bill (HB) 1423 (2025) – Dr. David Soulé

Dr. Soulé stated that the purpose of this videoconference meeting is to discuss House Bill (HB) 1423. If enacted, the legislation would significantly affect the operations of the MSCCSP. As such, pursuant to the policy adopted by the MSCCSP in July 2019 with respect to responding to legislative proposals that directly affect the operations of the MSCCSP or the sentencing guidelines, the meeting was arranged for the purpose of soliciting feedback and to request a vote whether the MSCCSP will support, oppose, or take no position on the proposed legislation, and if the MSCCSP should submit testimony (if necessary). As the hearing for HB 1423 is set for March 6, 2025, Judge Middleton asked to schedule the meeting today so that the full Commission could discuss the bill and the possibility of submitting testimony before the March 6, 2025, hearing deadline.

Dr. Soulé explained that if enacted, HB 1423 would establish a new Commission to Review and Assess Racial Disparities in the State Criminal Justice System. The Commission membership would include 13 members in total and would add the MSCCSP Executive Director or the director's designee as one of the 13 members. Starting at section f, on line 18 of page 2 of the bill, the Commission is mandated with an extensive list of tasks, starting with the requirement to:

- (f)(1)(i): Study and make recommendations on the disparate treatment of African Americans, Hispanics, and other non-White individuals in the State's criminal justice system, including how cumulative impacts may result from disparate policing, arrests, charging, pretrial detention, sentencing, community supervision, and prosecution, including diversion and plea policies.

If the legislation stopped there, one might assume the legislation was intended to address the Sentencing Commission's recommendation from its July 2023 race report which recommended the State should fund a study to assess the impact of race at multiple points in the criminal justice system. This type of study would be a significant task as it would require data collection and complex analyses from multiple sources such as police enforcement data, arrest data, prosecution data, court pretrial services data, pretrial diversion data, statewide sentencing data, and corrections data.

HB 1423 also includes multiple other issues to study including:

- Mandatory minimum charging practices;
- The very broadly stated "the need and alternative methods available to improve any racial disparities and lack of transparency in the State's criminal justice system;



- Improvements available to the systemic structures for race-neutral risk and needs assessments diversion, sentencing alternatives, rehabilitative sentencing, and reduction of recidivism;
- Possibility of amending the Maryland sentencing guidelines with respect to the offender score;
- Possibility of using the resources of DPSCS to conduct pretrial and presentence risk and needs assessments;
- Potential to increase judicial discretion to allow judges to consider additional factors;
- Possibility of modifying or abolishing the felony murder doctrine;
- The design and expansion of programs intended to reduce State prison programs, be rehabilitative, and further reduce the length of prison sentences; and finally
- Data collection methods for the ongoing monitoring of racial disparities at each stage of the State's criminal justice system.

In summary, HB 1423 mandates the need to study at least 10 separate issues, several of which are outside the scope of the Sentencing Commission's work. Any one of these issues would be a significant endeavor by itself. Further, each of these 10 issues, other than the guidelines offender score study which the MSCCSP has already initiated on its own, will require substantial data collection, and it is important to note that the overwhelming majority will require data that are not currently available on a statewide basis. A substantial amount of work would be required to collect the relevant data, and, in some instances, it would require the need to work with 24 different jurisdictions for each data point.

In the case of felony murder, an analysis would require manually reviewing all first-degree murder convictions on case-by-case basis to attempt to decipher which met the elements of felony murder.

Additionally, HB 1423 requires the staff to facilitate at least four public hearings.

HB 1423 requires all of this to be completed, and a report submitted by September 1, 2026, in a 14-month period (July 1, 2025 – September 1, 2026).

Dr. Soulé described how the proposed legislation would have a substantial operational and fiscal impact on the MSCCSP, as it would require the MSCCSP to staff a newly created Commission charged with multiple complex initiatives. The MSCCSP does not have the existing infrastructure and resources to meet the substantial additional requirements created by HB 1423. The MSCCSP staff will need to prepare a fiscal and operational impact statement regarding the impact of this legislation. At a minimum, it would require adding four to five new staff.

Dr. Soulé then explained that he met with Delegate Bartlett and the sponsor of HB 1423, Delegate Crutchfield. During the meeting, Dr. Soulé relayed his concerns about the limited resources of the MSCCSP and how HB 1423 goes beyond the scope of the MSCCSP's work.



Delegate Crutchfield understood the concerns and indicated that she would offer an amendment to strike the MSCCSP as staff for the new Commission.

Dr. Soulé also suggested striking the language on page 3, lines 4-6 that provides for the possibility of amending the Maryland Sentencing Guidelines with respect to the offender score calculation methodology for the purpose of reducing the impact of any previously existing racial and ethnic differences caused by excessive policing. Dr. Soulé also noted to Delegate Crutchfield that this language should be removed because the MSCCSP recommended this action for itself in its 2023 race report, and the MSCCSP already approved a study proposal to assess the guidelines offender score. Since the MSCCSP plans to start this study this year, this specific mandate from HB 1423 is duplicative and not needed. Additionally, Dr. Soulé shared that the MSCCSP is the most appropriate entity to study the offender score because it is directly related to the sentencing guidelines. In their meeting, Delegate Crutchfield agreed with this recommendation and indicated that she would submit these amendments.

Dr. Soulé stated that it is his recommendation that the MSCCSP should submit written testimony, labeled “oppose unless amended” in advance of the March 6, 2025, hearing date. The testimony might specify that the MSCCSP supports the concept of studying disparities in the criminal justice system but opposes the proposed process to do so because:

- The MSCCSP has limited resources and does not have the ability to complete the ten assigned tasks many of which are outside the scope of the Sentencing Commission’s work.

Additionally, the testimony should note that the MSCCSP recommends striking the language to complete an assessment of the sentencing guidelines offender score because the MSCCSP already approved a proposal to study the offender score and because the MSCCSP is the most appropriate entity to study this sentencing guidelines-related component.

5. Discussion- Judge Dana M. Middleton

Judge Middleton thanked Dr. Soulé for convening the meeting and called for a discussion about the bill.

Judge Shaw questioned whether the MSCCSP should oppose HB 1423 and asked Senator Sydnor for his recommendation on whether the MSCCSP should provide information regarding the parameters of their work and issues with the bill. Additionally, Judge Shaw expressed that while HB 1423 is important to support, some of the study items are beyond the purview of the MSCCSP.

Senator Sydnor responded that the MSCCSP could submit a letter of information expressing that it is open to supporting the bill if the amendments are included, if the MSCCSP does not want to oppose HB 1423 entirely.

Senator West added that normally letters of information do not suggest amendments and clarified that the MSCCSP can either favor HB 1423 with amendments or oppose HB 1423 unless amended.



Delegate Bartlett agreed with Senators Sydnor and West and stated that the less adverse course of action is to favor HB 1423 with amendments. Regarding the fiscal note for HB 1423, Delegate Bartlett agreed with Dr. Soulé that the MSCCSP's response should include the need for additional staff.

As the representative of the Maryland State's Attorneys Association, Mr. Harvey shared some of the concerns discussed in terms of data collection. HB 1423 would require Maryland state's attorney's offices to provide data that is not readily available due to a lack of staff and funding. Additionally, many offices do not have case management systems to generate data. Mr. Harvey also agreed with Judge Shaw that several of the study items are beyond the scope of the MSCCSP, namely studying the possibility of modifying or abolishing the State's felony murder doctrine for cases where individuals did not intend to commit murder.

6. Vote whether to support, oppose, or take no position – Judge Dana M. Middleton (Action item)

Judge Middleton asked if anyone wanted to make a motion to provide written testimony in favor with amendments for HB 1423. A motion was made and **the Commission voted to favor HB 1423 with amendments and provide written testimony**. Two commissioners voted against providing written testimony in favor with amendments for HB 1423 and two abstained from the vote.

7. Old Business

There was no old business to discuss.

8. New Business and announcements

There was no new business or announcements.

Judge Middleton thanked the commissioners for their time and input. The meeting adjourned at 12:42 p.m.