

Department of Legislative Services
Maryland General Assembly
2001 Session

FISCAL NOTE

House Bill 1323
Judiciary

(Delegate Doory)

Crimes - Controlled Dangerous Substances in Correctional Facilities - Penalties

This bill makes it a felony, rather than a misdemeanor, for a person to deliver, or possess with the intent to deliver, a controlled dangerous substance to a person detained or confined in a place of confinement. The bill also increases the maximum penalty for the offense from a fine of \$1,000 and/or imprisonment for three years to: (1) a fine of \$25,000 and/or imprisonment for 20 years if the substance is a Schedule I or II narcotic drug; (2) a fine of \$20,000 and/or imprisonment for 20 years for specified other Schedule I drugs; or (3) a fine of \$15,000 and/or imprisonment for five years for any other controlled dangerous substance in Schedules I, II, III, IV, or V, and a nonsuspendable, nonparolable mandatory minimum sentence of two years if the person is a repeat offender.

Fiscal Summary

State Effect: Potential minimal increase in general fund expenditures due to the bill's increased incarceration penalty provisions. Potential minimal decrease in general fund fine revenues as these cases will now be heard in circuit courts.

Local Effect: Potential minimal increase in revenues due to a change in court jurisdiction, and minimal decrease in expenditures due to significantly stiffer penalties.

Small Business Effect: None.

Analysis

Current Law: A person may not deliver, or possess with the intent to deliver, a controlled dangerous substance to a person detained or confined in a place of

confinement. Persons violating these prohibitions are guilty of a misdemeanor and subject to maximum penalties of a fine of \$1,000 and/or imprisonment for three years.

Background: Changing crimes from misdemeanors to felonies generally means: (1) that such cases will be filed in the circuit courts rather than the District Court; and (2) some persons could eventually serve longer incarcerations due to enhanced penalty provisions, applicable to some offenses, for prior felony convictions. However, it is not known whether the prospect of a jury trial might spur more plea bargains and affect actual sentencing practices for these offenses.

State Revenues: General fund revenues could decrease minimally due to the change in jurisdiction from the District Court to the circuit courts.

State Expenditures: Although this bill significantly increases the penalty for these offenses, the number of persons subject to the lengthier incarceration provisions is assumed to be small. Accordingly, general fund expenditures could increase minimally as a result of the bill's incarceration penalty due to more people being committed to (Division of Correction) DOC facilities for longer periods of time.

Persons serving a sentence longer than one year are incarcerated in DOC facilities. Currently, the average total cost per inmate, including overhead, is estimated at \$1,700 per month. This bill alone, however, should not create the need for additional beds, personnel, or facilities. Excluding overhead, the average cost of housing a new DOC inmate (including medical care and variable costs) is \$288 per month.

Local Revenues: Revenues could increase minimally as a result of the bill's monetary penalty provision from cases heard in the circuit courts. By changing these crimes from misdemeanors to felonies, cases that could have been filed in District Court will be filed in the circuit courts. The number of cases is assumed to be small.

Local Expenditures: To the extent that fewer persons may be remanded to a DOC facility rather than a local detention facility, local expenditures could decrease minimally as a result of the bill's stiffer incarceration penalties. Counties pay the full cost of incarceration for people in their facilities for the first 90 days of the sentence, plus part of the per diem cost after 90 days. Per diem operating costs of local detention facilities are expected to range from \$17 to \$77 per inmate in fiscal 2002.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Public Safety and Correctional Services
(Division of Correction), Department of Legislative Services

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cm/jr

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