HB 69

Department of Legislative Services

Maryland General Assembly
2001 Session

FISCAL NOTE

House Bill 69 (Delegate Owings)
Judiciary

Drunk and Drugged Driving - Mandatory Arrest and Detention

This bill requires that a law enforcement officer or District Court Commissioner wait at least 12 hours from the time of arrest before releasing a person who was arrested for any alcohol and/or drug-impaired driving offense, including homicide or causing a life threatening injury to another with a motor vehicle or vessel while intoxicated.

The bill also requires a law enforcement officer to arrest a person if the officer has a warrant or without a warrant, if the officer has probable cause that the person has committed any of the offenses referenced in the bill.

Fiscal Summary

State Effect: Potential significant increase in District Court personnel costs to handle the increased workload. Revenues would not be affected.

Local Effect: Meaningful expenditure increase for some counties.

Small Business Effect: None.

Analysis

Current Law: There is no legal reference to how long a person arrested for the referenced offenses must or can be detained. It is, however, normal practice to release someone as soon as the necessary arrest procedures are completed.

Police officers are not explicitly required to arrest a person for violating an offense referenced in the bill on probable cause.

Background: There were 38,463 arrests for alcohol and/or drug-impaired driving violations in fiscal 2001. Of these, the District Court advises that about one-third were brought before the 239 District Court Commissioners.

Some concern has been expressed about people who are arrested for a drunk and/or drug-impaired driving offense being released while the person is still under the influence of the substance in question. This bill attempts to address that concern with a mandatory "sober-up" period.

State Fiscal Effect: Under the bill, the District Court advises that it would need to conduct about 20,000 additional pretrial appearances before a commissioner and about 10,000 additional bail review hearings before a judge. The number of new staff needed to handle this increase is unknown at this time because the bill's requirements could be handled with existing resources in some places and not in others. Consequently, the actual increase in general fund expenditures cannot be reliably estimated, but could be significant. As a reference a commissioner's starting salary is $36,190 and, in addition to other duties and hearings, a commissioner currently averages about 50 alcohol and/or drug-impaired driving violation hearings a year. It is assumed that additional clerical and administrative staff would be needed as well.

In addition to any expenditure increase in the District Court, general fund expenditures could increase minimally as a result of the bill's incarceration penalty due to increased payments to Baltimore City. Persons sentenced in Baltimore City are generally incarcerated in a Division of Correction (DOC) facility. Currently, the DOC per diem is $50.35. In fiscal 2000 there were 166 arrests in Baltimore City for the violations referenced in this bill.

Local Fiscal Effect: Expenditures could increase as a result of the bill's incarceration requirement. Counties pay the full cost of incarceration for the first 90 days of the sentence. Per diem operating costs of local detention facilities are expected to range from $17 to $77 per inmate in fiscal 2002.

However, some counties advise that they could handle the bill's requirements with existing resources (Allegany) or with a minimal expenditure increase (Talbot), while others project significant expenditure increases due to the need to build or rent additional holding cells.

Montgomery County advises that it would need additional holding cells and would convert office space to meet this need, relocating staff into rented trailers at an annual cost of about $285,000. Montgomery County also advises that it would need to hire five additional officers for its Central Processing Unit at an approximate cost of $325,000 plus ancillary costs associated with holding arrestees (meals, medical, clean up, etc.). Prince George's County advises that accommodating the approximately 1,700 violators it arrests each year would require new holding cells, resulting in about a $98,600 annual expenditure increase to operate. Prince George's County did not estimate the cost of acquiring the holding cells. The Department of Legislative Services (DLS) notes that Prince George's County used the full per diem rate to calculate its estimate while the bill requires a violator to be detained for only a half-day. Therefore, DLS estimates that Prince George's County expenditures would increase by $49,300.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Transportation (Motor Vehicle Administration); Office of the Public Defender; Judiciary (District Court); Allegany, Montgomery, Prince George's, and Talbot counties; Department of Public Safety and Correctional Services (Division of Correction); Department of State Police; Department of Legislative Services

Fiscal Note History: First Reader – February 18, 2001
ncs/jr

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