

Department of Legislative Services
Maryland General Assembly
2004 Session

FISCAL AND POLICY NOTE

House Bill 413
Judiciary

(Delegate Smigiel, *et al.*)

Criminal Law - Life-Threatening Injury by Motor Vehicle or Vessel - Penalties

This bill establishes a definition for “life-threatening injury” and applies it to the alcohol- and drug-related crimes of life-threatening injury by motor vehicle or vessel. The bill also increases the incarceration penalties for these crimes.

Fiscal Summary

State Effect: Potential minimal increase in general fund expenditures due to the bill’s penalty provisions.

Local Effect: Potential minimal increase in expenditures due to the bill’s penalty provisions.

Small Business Effect: None.

Analysis

Bill Summary: This bill defines life-threatening injury to mean an injury that: (1) involves substantial risk of death; (2) results in the loss or substantial impairment of a bodily member or organ; (3) results in injury to mental faculty that is permanent or declared by a physician as likely to be permanent; or (4) results in obvious disfigurement that is permanent or declared by a physician as likely to be permanent. The bill applies the definition to the prohibitions against causing life-threatening injury to another person as a result of negligently driving, operating, or controlling a motor vehicle or vessel while: (1) under the influence of alcohol or under the influence of alcohol per se; (2) impaired by alcohol; (3) impaired by drugs, or drugs and alcohol; or (4) impaired by a controlled dangerous substance.

The bill increases the incarceration penalty for life-threatening injury by motor vehicle or vessel while under the influence of alcohol or under the influence of alcohol per se from three to five years. The incarceration penalty for life-threatening injury by motor vehicle or vessel while impaired by alcohol is increased from two to three years. The incarceration penalty for life-threatening injury by motor vehicle or vessel while impaired by drugs, or drugs and alcohol is increased from two to three years. The incarceration penalty for life-threatening injury by motor vehicle or vessel while impaired by a controlled dangerous substance is increased from two to three years.

Current Law: A person may not cause a life-threatening injury to another person as a result of negligently driving, operating, or controlling a motor vehicle or vessel while: (1) under the influence of alcohol or under the influence of alcohol per se; (2) impaired by alcohol; (3) impaired by drugs, or drugs and alcohol; or (4) impaired by a controlled dangerous substance. “Life-threatening injury” is not defined in statute.

A person who is convicted of life-threatening injury by motor vehicle or vessel while under the influence of alcohol or under the influence of alcohol per se is guilty of a misdemeanor and is subject to imprisonment not exceeding three years and/or, a maximum fine of \$5,000. A person who is convicted of life-threatening injury by motor vehicle or vessel: (1) while impaired by alcohol; (2) while impaired by one or more drugs and alcohol; or (3) while impaired by a controlled dangerous substance is guilty of a misdemeanor and is subject to imprisonment not exceeding two years and/or a maximum fine of \$3,000.

A person who is in a motor vehicle accident that results in death or life-threatening injury to another person shall be required to submit to a test if detained by an officer who has reasonable grounds to believe the person committed an alcohol- and/or drug-related driving offense. The Motor Vehicle Administration must assess 12 points against the license of a person who is convicted of causing a life-threatening injury by motor vehicle or vessel while under the influence of alcohol and related crimes and the license is subject to revocation.

State Expenditures: General fund expenditures could increase minimally as a result of the bill’s incarceration penalties due to people being committed to Division of Correction (DOC) facilities for longer periods of time and increased payments to counties for reimbursement of inmate costs. Although the Department of Public Safety and Correctional Services advises that no statistical data is available on the number of life-threatening injuries by motor vehicle or vessel, the number of people likely to be subject to the longer incarceration penalties is expected to be minimal.

Persons serving a sentence longer than 18 months are incarcerated in DOC facilities. Currently, the average total cost per inmate, including overhead, is estimated at \$1,850 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 \$350 per month. Excluding medical care, the average variable costs total \$120 per month.

Persons serving a sentence of one year or less in a jurisdiction other than Baltimore City are sentenced to local detention facilities. For persons sentenced to a term of between 12 and 18 months, the sentencing judge has the discretion to order that the sentence be served at a local facility or DOC. The State reimburses counties for part of their incarceration costs, on a per diem basis, after a person has served 90 days. State per diem reimbursements for fiscal 2005 are estimated to range from \$14 to \$58 per inmate depending upon the jurisdiction. Persons sentenced to such a term in Baltimore City are generally incarcerated in DOC facilities. The Baltimore City Detention Center, a State-operated facility, is used primarily for pretrial detentions.

Local Expenditures: Expenditures could increase minimally as a result of the bill's 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 \$29 to \$97 per inmate in fiscal 2005.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Natural Resources, Maryland Department of Transportation, Department of Public Safety and Correctional Services, Department of Legislative Services

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