

Department of Legislative Services  
Maryland General Assembly  
2005 Session

FISCAL AND POLICY NOTE

House Bill 269  
Judiciary

(Delegate Simmons, *et al.*)

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**Controlled Dangerous Substance Offenses - Subsequent Offender Penalties -  
Incarceration in Another Jurisdiction**

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This bill provides that the enhanced penalties for a third-time offender who has committed specified controlled dangerous substance offenses apply if the person has served a term of confinement of at least 180 days in a correctional institution as a result of a conviction of a crime under the laws of another state or the United States that would be a crime if committed in Maryland. The specified offenses are prohibitions against manufacturing, distributing, possessing with intent to distribute, or dispensing Schedule I or II narcotic drugs or hallucinogenic substances, or volume dealing of certain controlled dangerous substances.

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**Fiscal Summary**

**State Effect:** Potential minimal increase in general fund expenditures due to applicable incarceration penalty provisions. Any such effect would not be expected to occur for the Division of Correction (DOC) until some uncertain time in the future.

**Local Effect:** Potential minimal increase in local revenues due to applicable monetary penalty provisions. Any such effect would not be expected to occur until some uncertain time in the future.

**Small Business Effect:** None.

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**Analysis**

**Current Law:** When the controlled dangerous substance is a Schedule I or Schedule II narcotic drug, a convicted person is subject to maximum penalties of imprisonment for 20

years and/or a fine of \$25,000. A repeat offender or conspirator, even if the prior conviction was under federal law or in another state, must receive a mandatory minimum sentence of 10 years and is subject to a maximum fine of \$100,000. The mandatory minimum sentence is nonsuspendable and nonparolable.

Under certain circumstances, a repeat offender or conspirator convicted of those same primary crimes involving a Schedule I or Schedule II narcotic drug is subject to a mandatory minimum nonsuspendable, nonparolable sentence of 25 years and a maximum fine of \$100,000. A convicted offender or a conspirator with three or more separate convictions for such offenses is subject to a mandatory minimum nonsuspendable, nonparolable sentence of 40 years and a maximum fine of \$100,000.

When the controlled dangerous substance was specified other drugs – including PCP, LSD, and MDMD – a convicted person is subject to maximum penalties of imprisonment for 20 years and/or a fine of \$20,000. A repeat offender or conspirator, even if the prior conviction was under federal law or in another state, must receive a mandatory minimum sentence of 10 years and is subject to a maximum fine of \$100,000. The mandatory minimum sentence is nonsuspendable and nonparolable.

Under certain circumstances, a repeat offender or conspirator convicted of those same primary crimes involving the specified other drugs is subject to a mandatory minimum nonsuspendable, nonparolable sentence of 25 years and a maximum fine of \$100,000. A convicted offender or a conspirator with three or more separate convictions for such offenses is subject to a mandatory minimum nonsuspendable, nonparolable sentence of 40 years and a maximum fine of \$100,000.

A volume dealer, as defined by the amount of certain substances, is subject to a maximum fine of \$100,000 and, if the offense involved manufacturing, distributing, possessing with intent to distribute, or dispensing the controlled dangerous substance, the volume dealer is subject to a mandatory minimum nonsuspendable, nonparolable sentence of five years. There are no enhanced penalty provisions for subsequent offences.

**State Expenditures:** General fund expenditures could increase minimally as a result of the applicable incarceration penalty due to more people being committed to DOC facilities for longer periods of time. The number of people affected by the provisions of this bill 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 \$310 per month. Excluding medical care, the average variable costs total \$120 per month.

**Local Revenues:** Revenues could increase minimally as a result of the applicable monetary penalty provisions from cases heard in the circuit courts.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Commission on Criminal Sentencing Policy, State's Attorneys' Association, Department of Public Safety and Correctional Services, Department of Legislative Services

**Fiscal Note History:** First Reader - February 3, 2005  
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