

Department of Legislative Services
Maryland General Assembly
2007 Session

FISCAL AND POLICY NOTE

House Bill 364
Judiciary

(Delegate Simmons)

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

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 controlled dangerous substances.

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.

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.

A third-time offender or conspirator convicted of those same primary crimes involving a Schedule I or Schedule II narcotic drug, if certain confinement and conviction prerequisites are met, is subject to a mandatory minimum nonsuspendable, nonparolable sentence of 25 years and a maximum fine of \$100,000. A convicted fourth-time 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 hallucinogenic drugs – including PCP, LSD, and MDMA – 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.

A third-time offender or conspirator convicted of those same primary crimes involving the specified hallucinogenic drugs, if certain confinement and conviction prerequisites are met, is subject to a mandatory minimum nonsuspendable, nonparolable sentence of 25 years and a maximum fine of \$100,000. A convicted fourth-time 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.

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 \$2,300 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 \$465 per month. Excluding medical care, the average variable costs total \$134 per month.

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

Additional Information

Prior Introductions: HB 410 of 2006 and HB 269 of 2005 each received a hearing before the House Judiciary Committee with no further action taken.

Cross File: None.

Information Source(s): State's Attorneys' Association, Department of Public Safety and Correctional Services, Department of Legislative Services

Fiscal Note History: First Reader - February 28, 2007
bfl/jr

Analysis by: Guy G. Cherry

Direct Inquiries to:
(410) 946-5510
(301) 970-5510