

Department of Legislative Services
Maryland General Assembly
2010 Session

FISCAL AND POLICY NOTE

House Bill 1411
Judiciary

(Delegate Shewell, *et al.*)

Criminal Law - Homicide by Motor Vehicle or Vessel - Penalties

This bill increases the incarceration penalties from three years to five years for homicide by motor vehicle or vessel while (1) impaired by alcohol; (2) impaired by a drug, drugs and/or alcohol; or (3) impaired by a controlled dangerous substance. As a result, all offenses of homicide by motor vehicle or vessel while under the influence of alcohol or under the influence *per se*; impaired by alcohol; so far impaired by a drug, drugs and/or alcohol; or impaired by a controlled dangerous substance carry the same maximum penalties of a \$5,000 fine and/or five years imprisonment.

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

Current Law: A "motor vehicle" is a vehicle that is self-propelled or propelled by electric power obtained from overhead electrical wires and is not operated on rails. A motor vehicle includes a low-speed vehicle but does not include a moped or motor scooter. Under the Criminal Law Article, a "vessel" is any watercraft that is used or capable of being used as a means of transportation on water or ice but does not include a seaplane.

A person may not cause the death of another as a result of negligently driving, operating, or controlling a motor vehicle or vessel while under the influence of alcohol or alcohol *per se*. A person who commits such an offense is guilty of the felony of homicide by motor vehicle or vessel while under the influence of alcohol or alcohol *per se* and is subject to maximum penalties of five years imprisonment and/or a \$5,000 fine.

A person may not cause the death of another as a result of negligently driving, operating, or controlling a motor vehicle or vessel while (1) impaired by alcohol; (2) so far impaired by a drug, drugs and/or drugs and alcohol that the person cannot drive, operate, or control a motor vehicle or vessel safely; or (3) while impaired by a controlled dangerous substance that the person is not entitled to use by State law.

All of these offenses are felonies and a violator is subject to maximum penalties of a \$5,000 fine and/or three years imprisonment. In addition to these penalties, the Motor Vehicle Administration is required to assess 12 points on the driver's license after conviction for any homicide by motor vehicle or vessel offense, making the driver subject to revocation of the driver's license. A driver who accumulates 12 points on the driver's license within a two-year period is subject to license revocation.

State Expenditures: General fund expenditures 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 payments to counties for reimbursement of inmate costs. The number of people likely to be subject to the longer incarceration sentences proposed in this bill is expected to be minimal. According to the Maryland Commission on Criminal Sentencing Policy, three convictions for this offense occurred in the circuit courts in fiscal 2009. In fiscal 2009, DOC reported that there were six intakes for the offense of homicide by motor vehicle or vessel. The average sentence imposed is reported to be 50 months.

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 \$2,750 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 variable medical care and variable operating costs) is \$409 per month. Excluding all medical care, the average variable costs total \$182 per month.

Local Expenditures: Expenditures 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 12 months of the sentence. A \$45 per diem State grant is provided to each county for each day between 12 and 18 months that a sentenced inmate is confined in a local detention center. Counties also receive an additional \$45 per day

grant for inmates who have been sentenced to the custody of DOC but are confined in a local facility. Per diem operating costs of local detention facilities are expected to range from \$57 to \$157 per inmate in fiscal 2011.

Additional Information

Prior Introductions: A similar bill, HB 412 of 2004, received an unfavorable report from the House Judiciary Committee.

Cross File: SB 696 (Senator Haines) - Judicial Proceedings.

Information Source(s): Commission on Criminal Sentencing Policy, Office of the Public Defender, Judiciary (Administrative Office of the Courts), Department of State Police, State's Attorneys' Association, Maryland Department of Transportation, Department of Legislative Services

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