

Department of Legislative Services
Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE

Senate Bill 468

(Senator Forehand, *et al.*)

Judicial Proceedings

Vehicle Laws - Misdemeanor Violations - Unsupervised Probation

This bill requires that a person placed on probation for a misdemeanor violation of the Maryland Vehicle Law have unsupervised probation unless the offense was a drunk or drugged driving offense under the Maryland Vehicle Law or the person had been placed on probation previously for a violation of the Maryland Vehicle Law.

Fiscal Summary

State Effect: The bill may promote operational efficiencies in the Department of Public Safety and Correctional Services (DPSCS); however, any change in State activities is not expected to materially affect State finances.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: A violation of any of the provisions of the Maryland Vehicle Law is considered a misdemeanor, unless (1) the violation is declared to be a felony by the Maryland Vehicle Law or any other law of Maryland or (2) the violation is punishable by a civil penalty under the Maryland Vehicle Law. Except as otherwise specified, a misdemeanor is punishable by a maximum fine of \$500.

For those offenses that are not punishable by a term of imprisonment, a person may admit guilt and “prepay” the fine. The District Court establishes a schedule of prepayment penalties for the Maryland Vehicle Law. Generally, the prepayment penalties are less

than the maximum fine of \$500, although for some offenses, the requirement to pay court costs in addition to a prepayment penalty may require the offender to pay more than \$500 to dispose of the charge. If the offense is punishable by a jail term, the offense is not subject to prepayment. Instead, the offense is designated as a “must appear,” meaning that the offender must appear in court to answer the charges.

A court may place a defendant on probation before judgment (PBJ) when (1) a defendant pleads guilty or *nolo contendere* or is found guilty of a crime; (2) the court finds that PBJ would be in the best interest of the defendant and the public welfare; and (3) the defendant gives written consent to PBJ after determination of guilt or acceptance of a *nolo contendere* plea.

PBJ may include (1) custodial confinement or imprisonment; (2) payment of a fine or restitution; (3) participation in a rehabilitation program or other specified programs; or (4) participation in an alcohol or drug treatment or education program approved by the Department of Health and Mental Hygiene.

A defendant who agrees to PBJ waives the right to appeal at any time from the judgment of guilt. When a defendant fulfills the conditions of PBJ, the court must discharge the defendant from probation, which is the final disposition of the matter. A defendant discharged from PBJ is not considered to have been convicted of a crime.

If a defendant violates PBJ, the court may enter judgment and proceed as if the defendant had not been placed on probation. However, the defendant must receive credit for any time served under custodial confinement during PBJ.

A court is prohibited from imposing PBJ on defendants for the following crimes under the Maryland Vehicle Law or related to operating a vessel:

- violations of specified offenses relating to driving a motor vehicle or operating a vessel while impaired or under the influence of alcohol, if within the preceding 10 years the defendant had been convicted of one of the specified offenses or had been placed on PBJ for one of the specified offenses; or
- a moving traffic violation, if the defendant holds a provisional license and had previously been placed on PBJ while holding a provisional license.

State Fiscal Effect: DPSCS advises that, as of November 30, 2012, DPSCS Community Supervision supervised 3,473 individuals for vehicle and traffic-related offenses. Most individuals placed on probation for a first-time traffic-related offense are assigned to the lowest level of supervision as they are considered to be low risk for continued criminal

activity. The requirement for unsupervised probation under the bill may allow DPSCS to redirect additional supervisory resources to those offenders who are at a higher risk of reoffending.

Additional Information

Prior Introductions: None.

Cross File: HB 556 (Delegate Anderson) - Judiciary.

Information Source(s): Judiciary (Administrative Office of the Courts), Department of Public Safety and Correctional Services, Maryland Department of Transportation, Department of Legislative Services

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