

Department of Legislative Services
Maryland General Assembly
2015 Session

FISCAL AND POLICY NOTE

House Bill 132
Judiciary

(Delegate Anderson, *et al.*)

Criminal Law - Reckless Endangerment - Repeal of Specific Charging Requirement

This bill repeals the requirement that a defendant must be charged specifically with reckless endangerment to be found guilty of reckless endangerment.

Fiscal Summary

State Effect: Minimal decrease in general fund expenditures if the bill results in individuals being convicted of reckless endangerment instead of a more serious offense that carries a longer incarceration penalty. Revenues are not affected.

Local Effect: Minimal increase in local revenues from monetary penalties imposed in circuit court cases if the bill results in individuals being convicted of reckless endangerment instead of more serious offenses that do not carry a monetary penalty or carry a lesser monetary penalty. Expenditures are not affected.

Small Business Effect: None.

Analysis

Current Law: Reckless endangerment is (1) engaging in conduct that creates a substantial risk of death or serious physical injury to another or (2) discharging a firearm from a motor vehicle in a manner that creates a substantial risk of death or serious physical injury to another. The offense is a misdemeanor, punishable by imprisonment for up to five years and/or a \$5,000 maximum fine.

There are exceptions to the prohibition on reckless endangerment for conduct involving the use of a motor vehicle or the manufacture, production, or sale of a product.

Reckless conduct involving the use of a motor vehicle, which constitutes “reckless driving,” is prohibited under the Maryland Vehicle Law and is subject to specified criminal penalties. The prohibited conduct involving the discharge of a firearm does not apply to a law enforcement officer or security guard in the performance of an official duty or an individual acting in self-defense against a crime of violence.

A defendant must be charged specifically with reckless endangerment to be found guilty of the offense. A charging document for reckless endangerment is sufficient if it substantially states:

(name of defendant) on (date) in (county) committed reckless endangerment in violation of § 3-204 of the Criminal Law Article against the peace, government, and dignity of the State.

If more than one individual is endangered by the conduct of the defendant, a separate charge may be brought for each individual endangered. A charging document containing a charge of reckless endangerment may include a count for each individual endangered by the conduct of the defendant or contain a single count based on the defendant’s conduct, regardless of the number of individuals endangered.

If the general form of the charging document is used to charge reckless endangerment in a case in the circuit court, the defendant, on timely demand, is entitled to a bill of particulars.

Background: Under the common law, a defendant could be convicted of a lesser offense included in the offense charged. Reckless endangerment is a lesser included offense of either a grossly negligent involuntary manslaughter or a depraved heart second-degree murder. *Dishman v. State*, 118 Md. App. 360 (1997).

A person who commits manslaughter is guilty of a felony and subject to maximum penalties of (1) imprisonment for 10 years or (2) imprisonment in a local correctional facility for 2 years and/or a fine of \$500. Second-degree murder is punishable by imprisonment for up to 30 years.

State Expenditures: General fund expenditures decrease minimally to the extent that the bill results in individuals being convicted of reckless endangerment instead of a more serious offense that carries a longer incarceration penalty.

Persons serving a sentence longer than 18 months are incarcerated in State correctional facilities. Currently, the average total cost per inmate, including overhead, is estimated at \$3,100 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 State inmate (including variable health care costs) is about \$770 per month. Excluding all health care, the average variable costs total \$200 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 a State correctional facility. Prior to fiscal 2010, the State reimbursed counties for part of their incarceration costs, on a per diem basis, after a person had served 90 days. Currently, the State provides assistance to the counties for locally sentenced inmates and for inmates who are sentenced to and awaiting transfer to the State correctional system. A \$45 per diem 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 the State but are confined in a local facility. The State does not pay for pretrial detention time in a local correctional facility. Persons sentenced in Baltimore City are generally incarcerated in State correctional facilities. The Baltimore City Detention Center, a State-operated facility, is used primarily for pretrial detentions.

Additional Information

Prior Introductions: HB 787 of 2013 passed the House with amendments and received a hearing in the Senate Judicial Proceedings Committee. No further action was taken on the bill.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts), Office of the Public Defender, State's Attorneys' Association, Department of Legislative Services

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mel/kdm

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