

Department of Legislative Services  
Maryland General Assembly  
2016 Session

FISCAL AND POLICY NOTE  
First Reader

House Bill 857  
Judiciary

(Delegates Carter and Glenn)

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Law Enforcement Officers - Alcohol and Drug Testing - Required

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This bill requires, under the Law Enforcement Officers' Bill of Rights (LEOBR), a law enforcement agency to order a law enforcement officer to submit to a blood alcohol test and blood, breath, or urine tests for controlled dangerous substances if the officer was involved in an incident in which the officer discharged a firearm, discharged an electronic control device, or caused a motor vehicle accident.

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Fiscal Summary

**State Effect:** While some State agencies with law enforcement units can implement the bill with existing resources, most agencies, including the Department of Natural Resources (DNR), the Department of State Police (DSP), and the Maryland Transportation Authority (MDTA) may incur an increase in expenditures to conduct additional alcohol and drug testing. Revenues are not affected.

**Local Effect:** While most local law enforcement agencies can implement the bill with existing resources, some may incur an increase in costs to conduct additional alcohol and drug testing. Local revenues are not affected. **This bill may impose a mandate on a unit of local government.**

**Small Business Effect:** None.

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Analysis

**Current Law/Background:** A law enforcement agency *may* order a law enforcement officer under investigation to submit to blood alcohol tests; blood, breath, or urine tests for controlled dangerous substances; polygraph examinations; or interrogations that

specifically relate to the subject matter of the investigation. The results of a test, examination, or interrogation ordered by a law enforcement agency are not admissible or discoverable in a criminal proceeding against the law enforcement officer.

If a law enforcement agency orders a law enforcement officer to submit to a test, examination, or interrogation and the law enforcement officer refuses to do so, the law enforcement agency may commence an action that may lead to a punitive measure as a result of the refusal.

LEOBR was enacted in 1974 to guarantee police officers specified procedural safeguards in any investigation that could lead to disciplinary action. It extends to police officers of 26 specified State and local agencies.

**State Expenditures:** Based on information provided by several State agencies with law enforcement units, some State agencies can handle the bill's requirements with existing budgeted resources. Most agencies, however, may incur additional costs to conduct additional alcohol and drug testing. For example, DNR advises that general fund expenditures for contractual services increase by \$120 for each additional test it must conduct on its officers as a result of the bill. DSP advises that although it has a random drug testing policy in place, the bill requires additional testing, thus increasing its general fund expenditures by more than \$100 for each additional test conducted. MDTA also notes the potential for increased expenditures.

**Local Expenditures:** Based on a limited survey of local jurisdictions, most local law enforcement agencies can implement the bill with existing resources. Some, however, may incur additional costs to conduct additional testing.

**Additional Comments:** It is assumed that an "incident" covered under the bill does not include weapons discharge events for training purposes.

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### **Additional Information**

**Prior Introductions:** HB 819 of 2015 received a hearing in the House Judiciary Committee, but no further action was taken on the bill. HB 1188 of 2014 received a hearing in the House Judiciary Committee but was subsequently withdrawn.

**Cross File:** None.

**Information Source(s):** Charles, Frederick, and Montgomery counties; cities of Frederick and Havre de Grace; Department of General Services; Department of Natural Resources;

Department of Public Safety and Correctional Services; Department of State Police;  
Maryland Department of Transportation; Department of Legislative Services

**Fiscal Note History:** First Reader - February 18, 2016  
min/lgc

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