

Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 940 (Senator Smith)
Budget and Taxation and Judicial Proceedings

Criminal Law - Betting, Wagering, and Gambling - Civil Offense

This bill decriminalizes and/or alters the penalties for various betting/gambling-related offenses under §§ 12-102 and 12-103 of the Criminal Law Article.

Fiscal Summary

State Effect: Minimal increase in general fund revenues from fines imposed in the District Court. Minimal decrease in general fund expenditures for the Department of Public Safety and Correctional Services due to the bill's decriminalization of specified offenses.

Local Effect: Minimal decrease in local revenues from fines imposed in circuit court cases. Minimal decrease in local incarceration expenditures due to the bill's decriminalization of specified offenses.

Small Business Effect: None.

Analysis

Bill Summary: The bill alters the classifications of and/or penalties for several offenses, as shown in **Exhibit 1**.

Exhibit 1
Classifications and Penalties under Current Law and under the Bill

Offense	Current Penalty	Penalty under the Bill
Betting, wagering, and gambling (Moved from § 12-102 to § 12-103 of the Criminal Law Article)	Misdemeanor Imprisonment for at least 6 months and up to 1 year and/or a fine of at least \$200 and up to \$1,000	Civil offense Maximum fine of \$500 if the violation involves money/consideration of up to \$100 Maximum fine of \$1,000 if the violation involves money/consideration exceeding \$100
Remaining offenses under § 12-102 of the Criminal Law Article involving running illegal gambling operations	Misdemeanor Imprisonment for at least 6 months and up to 1 year and/or a fine of at least \$200 and up to \$1,000	Misdemeanor Imprisonment for up to 6 months and/or a fine of up to \$5,000
Playing specified games and any other gaming device or fraudulent trick (The bill removes references to specified games) (§ 12-103 of the Criminal Law Article)	Misdemeanor Imprisonment for at least 6 months and up to 2 years and/or a fine of up to \$100	Civil offense Maximum fine of \$500 if the violation involves money/consideration of up to \$100 Maximum fine of \$1,000 if the violation involves money/consideration exceeding \$100

Source: Department of Legislative Services

Adjudication of the civil offenses established under the bill is not a criminal conviction for any purpose and does not impose any of the civil disabilities that may result from a criminal conviction. The bill (1) clarifies provisions regarding the issuance of citations for these civil offenses; (2) requires a uniform citation for this offense, to be prescribed by the District Court; and (3) requires the Chief Judge of the District Court to establish a schedule for the prepayment of a fine imposed for a violation.

A person issued a citation for these civil offenses must pay the full amount of the preset fine or request a trial date, to be determined by the District Court by writ or trial notice. Prepayment of a fine must be considered a plea of guilty to a civil code violation. A person may request a trial by sending a request for trial to the District Court in the jurisdiction where the citation was issued within 30 days of the issuance of the citation. If a person does not request a trial or prepay the fine within 30 days of the issuance of the citation, the District Court must impose the maximum fine and costs against the person and find the person guilty of a code violation. The defendant is liable for the costs of the proceeding in the District Court.

Current Law: A person may not:

- bet, wager, or gamble;
- make or sell a book or pool on the result of a race, contest, or contingency;
- establish, keep, rent, use, or occupy or knowingly allow to be established, kept, rented, used, or occupied, a building, vessel, or place for the purpose of betting, wagering, or gambling or making, selling, or buying books or pools on the result of a race, contest, or contingency; or
- receive, become the depository of, record, register, or forward, or propose, agree, or pretend to forward, money or any other thing or consideration of value to be bet, wagered, or gambled on the result of a race, contest, or contingency.

A person who violates betting, wagering, and gambling laws is guilty of a misdemeanor and on conviction is subject to imprisonment for six months to one year and/or a fine ranging from \$200 to \$1,000.

A person who commits a violation in Baltimore City may be charged by a citation, which may be issued to a person by a police officer authorized to make arrests in Baltimore City if there is probable cause to believe that the person is committing or has committed a violation. The citation must contain specified information, and the police officer who issued the citation must forward a copy of the citation to the appropriate court. The court must promptly schedule the case for trial and schedule the defendant to appear. Willful failure of the defendant to respond to the summons is contempt of court.

A person may not play the following games for money or any other thing or consideration of value: thimbles; little joker; dice or craps; or any other gaming device or fraudulent trick. Violators are guilty of a misdemeanor, punishable by imprisonment between six months and two years and/or a fine of up to \$100.

Background: In fiscal 2016, there were 14 violations of Criminal Law Article § 12-102 and 171 violations of Criminal Law Article § 12-103 in the District Court. In fiscal 2015, 17 violations of § 12-102 of the Criminal Law Article and 218 violations of § 12-103 of the Criminal Law Article were filed in the District Court. A violation is a charge/count filed with the court. It is not a conviction, and one defendant may be associated with multiple violations.

According to the Maryland Sentencing Guidelines Database, the Maryland State Commission on Criminal Sentencing Policy received information for one individual convicted of violating § 12-103 in the State's circuit courts during fiscal 2016.

State Revenues: General fund revenues increase minimally from fines imposed in the District Court.

State Expenditures: General fund expenditures decrease minimally as a result of the bill's repeal of specified incarceration penalties.

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 \$3,600 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 \$800 per month. Excluding all health care, the average variable costs total \$210 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; beginning October 1, 2017, counties may receive the additional \$45 per day grant for inmates sentenced to the custody of the

State who receive reentry or other prerelease programming and services from 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 Pretrial Complex, a State-operated facility, is used primarily for pretrial detentions.

Local Revenues: Revenues decrease minimally from fines imposed in the circuit courts. Based on the distribution of violations for offenses affected by the bill, it appears that significantly more individuals are charged with violations of § 12-103 of the Criminal Law Article (171 violations in fiscal 2016 and 218 violations in fiscal 2015) than are charged for violating § 12-102 (14 violations in fiscal 2016 and 17 violations in fiscal 2015). The bill's decriminalization of the offenses under § 12-103 shifts some of these cases (and their fine revenues) from the circuit courts to the District Court. However, the bill also significantly increases the maximum monetary penalty for a misdemeanor violation of specified offenses under § 12-102 of the Criminal Law Article, some of which may result in circuit court cases. This estimate assumes that the net effect of these two elements of the bill is a minimal decrease in local revenues from fines imposed in the circuit courts.

Local Expenditures: Expenditures decrease minimally as a result of the bill's elimination of existing 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 the State but are confined in a local facility; beginning October 1, 2017, counties may receive the additional \$45 per day grant for inmates sentenced to the custody of the State who receive reentry or other prerelease programming and services from a local facility. Per diem operating costs of local detention facilities have ranged from approximately \$60 to \$160 per inmate in recent years.

Additional Information

Prior Introductions: HB 242 of 2016 passed the House as amended and received a hearing in the Senate Budget and Taxation Committee. No further action was taken on the bill.

Cross File: HB 377 (Delegate Moon, *et al.*) - Ways and Means and Judiciary.

Information Source(s): Baltimore City; Harford, Montgomery, and Talbot counties; City of College Park; Maryland State Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Department of Public Safety and Correctional Services; Department of State Police; Department of Legislative Services

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