

**Department of Legislative Services**  
Maryland General Assembly  
2017 Session

**FISCAL AND POLICY NOTE**  
**Third Reader**

House Bill 1015  
Judiciary

(Delegate Fraser-Hidalgo, *et al.*)

Judicial Proceedings

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**Criminal Law - Allowing Underage Drinker at Residence to Possess or Consume Alcohol - Penalties**

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This bill alters the penalties for specified violations of the prohibition against an adult knowingly and willfully allowing an individual younger than age 21 to possess or consume an alcoholic beverage at the adult's residence or within the curtilage of the adult's residence.

The bill also repeals the prohibition on allowing an individual younger than age 21 to possess or consume an alcoholic beverage or furnishing an alcoholic beverage to an individual younger than age 21 if the person knew or reasonably should have known that the individual would operate a motor vehicle after consuming the alcoholic beverage and, as a result of operating a motor vehicle under the influence of alcohol or while impaired by alcohol, the individual causes a serious physical injury or death to the individual or another. Under the bill, those violations are subject to the standard penalty for the underlying violation.

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**Fiscal Summary**

**State Effect:** Minimal increase in general fund revenues from fines imposed in the District Court. Minimal increase in general fund expenditures due to the bill's incarceration penalty.

**Local Effect:** Potential minimal increase in revenues from fines imposed in the circuit courts. Minimal increase in local expenditures due to the bill's incarceration penalty.

**Small Business Effect:** None.

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## Analysis

**Bill Summary:** Exhibit 1 contains a summary of changes to criminal penalties under the bill.

### Exhibit 1 Penalties for Violations of § 10-117 of the Criminal Law Article Under Current Law and Under the Bill

Offense	Penalty Under Current Law	Penalty Under Bill
Furnishing an alcoholic beverage to an individual younger than age 21	Misdemeanor  1 <sup>st</sup> Offense: \$2,500 maximum fine  2 <sup>nd</sup> or Subsequent Offense: \$5,000 maximum fine	Same
Knowingly and willfully allowing an individual younger than age 21 to possess or consume an alcoholic beverage at a residence/within curtilage of residence	Misdemeanor  1 <sup>st</sup> Offense: \$2,500 maximum fine  2 <sup>nd</sup> or Subsequent Offense: \$5,000 maximum fine	Misdemeanor  1 <sup>st</sup> Offense: Imprisonment for up to one year and/or \$5,000 maximum fine  2 <sup>nd</sup> or Subsequent Offense: Imprisonment for up to two years and/or \$7,500 maximum fine
Furnishing or Possession of Alcoholic Beverage: Violator knew or reasonably should have known individual younger than age 21 would operate a motor vehicle after consuming alcoholic beverage and cause serious physical injury or death through operation of motor vehicle	Misdemeanor  Imprisonment for up to one year and/or \$5,000 maximum fine	Offense Repealed: Use applicable furnishing or possession penalty listed above

Source: Department of Legislative Services

**Current Law:** A person may not furnish an alcoholic beverage to an individual if:

- the person furnishing the alcoholic beverage knows that the individual is younger than age 21; and
- the alcoholic beverage is furnished for the purpose of consumption by the individual younger than age 21.

This prohibition does not apply if the person furnishing the alcoholic beverage and the individual to whom the alcoholic beverage is furnished:

- are members of the same immediate family, and the alcoholic beverage is furnished and consumed in a private residence or within the curtilage of the residence; or
- are participants in a religious ceremony.

An adult may not knowingly and willfully allow an individual younger than age 21 actually to possess or consume an alcoholic beverage at a residence, or within the curtilage of a residence that the adult owns or leases and in which the adult resides.

This prohibition does not apply if the adult allowing the possession or consumption of the alcoholic beverage and the individual younger than age 21 who possesses or consumes the alcoholic beverage:

- are members of the same immediate family, and the alcoholic beverage is possessed and consumed in a private residence, or within the curtilage of the residence, of the adult; or
- are participants in a religious ceremony.

A violator of either of these prohibitions is guilty of a misdemeanor, punishable by a fine of up to \$2,500 for a first offense and a \$5,000 maximum fine for second or subsequent offense.

However, a more stringent penalty applies if the violation involves an individual younger than age 21 who:

- the person knew or reasonably should have known would operate a motor vehicle after consuming the alcoholic beverage; and
- as a result of operating a motor vehicle while under the influence of alcohol or while impaired by alcohol, causes serious physical injury or death to the individual or another.

A violation that meets this criteria is a misdemeanor, punishable by imprisonment for up to one year and/or a \$5,000 maximum fine.

**State Revenues:** General fund revenues increase minimally due to the bill's application of a higher monetary penalty to an existing criminal offense.

**State Expenditures:** General fund expenditures increase minimally as a result of the bill's incarceration penalty due to more people being committed to State correctional facilities for convictions in Baltimore City. The number of people convicted under the altered penalties proposed in the bill is expected to be minimal.

Generally, persons serving a sentence of one year or less in a jurisdiction other than Baltimore City are sentenced to a local detention facility. The Baltimore Pretrial Complex, a State-operated facility, is used primarily for pretrial detentions.

**Local Expenditures:** Expenditures increase as a result of the bill's altered incarceration penalty. Counties pay the full cost of incarceration for people in their facilities for the first 12 months of the sentence. Per diem operating costs of local detention facilities have ranged from approximately \$60 to \$160 per inmate in recent years.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Montgomery and Prince George's counties; City of Bowie; Maryland State Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Office of the Public Defender; Department of Public Safety and Correctional Services; Department of Legislative Services

**Fiscal Note History:** First Reader - February 26, 2017  
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