

Department of Legislative Services
Maryland General Assembly
2020 Session

FISCAL AND POLICY NOTE
Third Reader

Senate Bill 497

(Senator Ready, *et al.*)

Judicial Proceedings

Judiciary

Drugged Driving - Controlled Dangerous Substance Testing - Authorized Police
Officers

This bill authorizes a police officer who has successfully completed specified advanced roadside impaired driving enforcement training to request, require, or direct a person to take a test for drug or controlled dangerous substance (CDS) content relating to an alcohol-and/or drug-related driving offense, as specified. In addition, the bill repeals the authorization for a police officer who is a trainee of or direct or indirect participant in a specified drug recognition expert (DRE) training program to request, require, or direct a test.

Fiscal Summary

State Effect: General fund expenditures for the Department of State Police (DSP) increase, potentially significantly, as discussed below. Revenues are not affected.

Local Effect: The bill is not expected to materially affect local law enforcement operations or finances.

Small Business Effect: None.

Analysis

Bill Summary: A test may be requested by an officer who is a member of a specified law enforcement agency and has been certified as having successfully completed advanced roadside impaired driving enforcement training by the head of the law enforcement agency in a program of training that is (1) administered in conjunction with the National Highway Traffic Safety Administration (NHTSA) or (2) that contains requirements for successful

completion of the training program that are substantially equivalent to the requirements of the Advanced Roadside Impaired Driving Enforcement (ARIDE) training developed by NHTSA.

Current Law: A test for drug or CDS content relating to an alcohol- and/or drug-related driving offense (1) may not be requested unless the law enforcement agency of which the officer is a member has the capacity to have such tests conducted *and* (2) may only be requested by a police officer who is a trainee, has been trained, or is participating directly or indirectly in a program of training, as specified. The training program must be designed to train and certify police officers DREs and be conducted by a law enforcement agency of the State or other law enforcement agency, as specified – either in conjunction with NHTSA or as a program of training that is substantially equivalent to the requirements of the Drug Recognition Training Program developed by NHTSA.

If a police officer determines that a driver's impairment is more substantial than is indicated by a low blood alcohol concentration test and/or there is other evidence of impairment by a drug or CDS, the driver may be detained on suspicion of driving while impaired by a drug or CDS. However, only a DRE may administer the 12-step evaluation used to investigate whether a driver is impaired by a drug or CDS. After the evaluation, the DRE may request the driver to take a blood test to determine impairment by a drug or CDS. If the driver refuses, the officer must obtain a search warrant for administration of the blood test, unless exigent circumstances exist.

Background: ARIDE, developed by NHTSA, is designed to train law enforcement officers to observe, identify, and articulate the signs of impairment related to drugs and/or alcohol. The course is not a substitute for DRE training and does not qualify or certify an individual as a DRE.

DSP advises that there are 813 trained DREs in the State and that 1,191 DRE evaluations were conducted in 2019. According to DSP, 1,185 law enforcement officers in the State have been trained in advanced roadside impaired driving enforcement in the last three years.

State Expenditures: The bill expands the authorization to request a test to include specified law enforcement officers who are not trained DREs but who have completed advanced roadside impaired driving enforcement training.

DSP advises that the bill likely results in more tests being requested and that it is currently outsourcing blood testing for drug and CDS content. Contractual costs related to each test for drug or CDS content are estimated at roughly \$680. *Under one illustrative scenario*, if the bill's changes result in an additional 200 tests annually, general fund expenditures for DSP increase by at least \$136,000 annually, assuming the testing is outsourced.

When DSP transitions back to in-house testing of blood kits, additional equipment and personnel may be required to the extent that the bill results in a significant number of additional tests. Based on historical figures provided by DSP for similar legislation, one-time equipment costs may total up to \$550,000, and annual expenses related to hiring an additional full-time forensic chemist to conduct blood testing may total upward of \$90,000.

The bill's precise impact on State expenditures, however, cannot be reliably estimated, as it depends on the actual number of additional tests administered and the timing of DSP's transition back to in-house testing.

Additional Information

Prior Introductions: None.

Designated Cross File: HB 1334 (Delegate Arikan, *et al.*) - Judiciary.

Information Source(s): Montgomery County; City of Bowie; University System of Maryland; Morgan State University; Department of General Services; Department of Natural Resources; Department of State Police; Maryland Department of Transportation; Department of Legislative Services

Fiscal Note History: First Reader - February 20, 2020
mr/aad Third Reader - March 13, 2020

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