

Department of Legislative Services
Maryland General Assembly
2020 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 218 (Senator West)
Judicial Proceedings

**Crimes Involving Controlled Dangerous Substances - Penalties -
Methamphetamine**

This bill increases the penalties for distribution of methamphetamine and distribution-related crimes involving methamphetamine by adding methamphetamine to the list of specified drugs subject to increased penalties under § 5-609 of the Criminal Law Article.

Fiscal Summary

State Effect: Minimal increase in general fund expenditures due to the bill's penalty provisions, beginning in FY 2026, as discussed below. Revenues are not affected.

Local Effect: Minimal increase in local revenues due to the bill's penalty provisions. Expenditures are not affected.

Small Business Effect: None.

Analysis

Current Law: Controlled dangerous substances (CDS) are listed on one of five schedules (Schedules I through V) set forth in statute depending on their potential for abuse and acceptance for medical use. Statute authorizes increased penalties for the distribution of Schedule I or II narcotic drugs and specified substances. Because methamphetamine is not included in the list of specified drugs subject to increased penalties, it is subject to the general maximum penalties for distribution of CDS and related offenses.

For additional information on crimes involving the distribution of CDS, please refer to the **Appendix – Penalties for Distribution of Controlled Dangerous Substances and Related Offenses.**

Background: The Maryland State Commission on Criminal Sentencing Policy (MSCCSP) advises that a review of the Maryland Sentencing Guidelines Database indicates that MSCCSP received information for 25 individuals sentenced to 27 total counts of crimes involving controlled dangerous substances under § 5-609 of the Criminal Law Article in the State’s circuit courts. However, the Judiciary advises that during fiscal 2019, there were 78 convictions for distribution of a restricted hallucinogenic substance listed under § 5-609.

State Expenditures: General fund expenditures increase minimally as a result of the bill’s incarceration penalty due to people being committed to State correctional facilities for longer periods of time. The number of people sentenced under the bill is expected to be minimal. Based on the current five-year maximum penalty, the effect of the bill on State incarceration expenditures is more likely to be felt beginning in fiscal 2026, as defendants finish serving the amount of time they would serve under current law and commence incarceration under the longer sentence available under the bill. This estimate assumes that the bill does not shift individuals from local detention facilities to State correctional facilities.

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 \$3,700 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. The State provides assistance to the counties for locally sentenced inmates and for (1) inmates who are sentenced to and awaiting transfer to the State correctional system; (2) sentenced inmates confined in a local detention center between 12 and 18 months; and (3) inmates who have been sentenced to the custody of the State but are confined in or 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 increase minimally as a result of the bill’s monetary penalty provisions from cases heard in the circuit courts.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Howard 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; Maryland State's Attorneys' Association; Maryland Department of Health; Department of Public Safety and Correctional Services; Department of State Police; Department of Legislative Services

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Appendix – Penalties for Distribution of Controlled Dangerous Substances and Related Offenses

Under Title 5, Subtitle 6 of the Criminal Law Article, a person may not:

- distribute, dispense, or possess with the intent to distribute a controlled dangerous substance (CDS);
- manufacture a CDS or manufacture, distribute, or possess a machine, equipment, or device that is adapted to produce a CDS with the intent to use it to produce, sell, or dispense a CDS;
- create, distribute, or possess with the intent to distribute a counterfeit substance;
- manufacture, distribute, or possess equipment designed to render a counterfeit substance;
- keep a common nuisance (any place resorted to for the purpose of illegally administering CDS or where such substances or controlled paraphernalia are illegally manufactured, distributed, dispensed, stored, or concealed); or
- pass, issue, make, or possess a false, counterfeit, or altered prescription for a CDS with the intent to distribute the CDS.

Exhibit 1 shows the applicable sentences for these crimes.

Chapter 515 of 2016 (also known as the “Justice Reinvestment Act”) repealed mandatory minimum penalties applicable to a repeat drug offender (or conspirator) convicted of distribution of CDS and related offenses and established new maximum penalties. The changes took effect October 1, 2017.

Exhibit 1
Penalties for Distribution of Controlled Dangerous Substances and Related Offenses

Offense	Current Penalty ^{1, 2}
CDS (Other than Schedule I or II Narcotic Drugs and Other Specified CDS)³	
First-time Offender	Maximum penalty of 5 years imprisonment and/or \$15,000 fine
Repeat Offender	Maximum penalty of 5 years imprisonment and/or \$15,000 fine
CDS (Schedule I or II Narcotic Drug and Specified Drugs)⁴	
First-time Offender	Maximum penalty of 20 years imprisonment and/or \$15,000 fine
Second-time Offender	Maximum penalty of 20 years imprisonment and/or \$15,000 fine
Third-time Offender	Maximum penalty of 25 years imprisonment and/or a \$25,000 fine (parole eligibility at 50% of sentence)
Fourth-time Offender	Maximum penalty of 40 years imprisonment and/or a \$25,000 fine (parole eligibility at 50% of sentence)

CDS: controlled dangerous substance

¹Repeat offenders are subject to twice the term of imprisonment and/or fines that are otherwise authorized. Under Chapter 515 of 2016, effective October 1, 2017, this authorization is made applicable only when the person has also been previously convicted of a crime of violence.

²Chapter 569 of 2017 prohibits a person from knowingly distributing or possessing with the intent to distribute (1) a mixture of CDS that contains heroin and a detectable amount of fentanyl or any analogue of fentanyl or (2) fentanyl or any analogue of fentanyl. In addition to any other penalty imposed, a person is subject to imprisonment for up to 10 years. A sentence imposed for a violation of this prohibition must be served consecutively to any other sentence imposed.

³*e.g.*, marijuana.

⁴*e.g.*, cocaine and heroin.

Source: Department of Legislative Services
