

Department of Legislative Services
 Maryland General Assembly
 2024 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 118

(Senators Muse and Hettleman)

Judicial Proceedings

Judiciary

Drunk Driving Offenses - Expungement and the Ignition Interlock System Program

This bill authorizes a person to file a petition for expungement under § 10-105 of the Criminal Procedure Article if the person received a probation before judgment (PBJ) for a charge of violating § 21-902(a) or (b) of the Transportation Article (driving while under the influence of alcohol or under the influence of alcohol *per se* or driving while impaired by alcohol). The bill also expands mandatory participation in the Maryland Ignition Interlock System Program (IISP). The bill makes technical and conforming changes regarding these provisions. **The bill takes effect July 1, 2024.**

Fiscal Summary

State Effect: General fund expenditures for the Judiciary increase by *as much as* \$1.3 million in FY 2025 to handle additional expungements. Future year expenditures reflect annualization and inflation. Additional general fund expenditures may be incurred by expungement-related State agencies, as discussed below. Transportation Trust Fund (TTF) revenues increase by \$373,200 annually, beginning in FY 2025. The Motor Vehicle Administration (MVA) can implement the bill with existing budgeted resources. The Judiciary and the Office of Administrative Hearings (OAH) can absorb any impacts from the bill’s IISP provisions within existing budgeted resources.

(in dollars)	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029
SF Revenue	\$373,200	\$373,200	\$373,200	\$373,200	\$373,200
GF Expenditure	\$1,291,000	\$1,154,800	\$1,206,600	\$1,259,600	\$1,315,000
Net Effect	(\$917,800)	(\$781,600)	(\$833,400)	(\$886,400)	(\$941,800)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: Local expenditures may increase for local entities to process expungement orders issued by courts, as discussed below. Revenues are not affected.

Small Business Effect: None.

Analysis

Bill Summary:

Expungements

A person may file a petition for expungement under § 10-105 of the Criminal Procedure Article if the person received a PBJ for a charge of violating § 21-902(a) or (b) of the Transportation Article. The petition may not be filed within 15 years after the date the petitioner was discharged from probation. A person is not entitled to expungement if the petition is based on the entry of PBJ for a violation of § 21-902(a) or (b), and the person, within 15 years after entry of the PBJ, has (1) been convicted of a crime other than a minor traffic violation or a crime where the act on which the conviction is based is no longer a crime or (2) received PBJ for a violation of § 21-902.

Ignition Interlock System Program

The bill expands mandatory participation in IISP to include (1) an individual who is granted PBJ for driving while under the influence of alcohol or under the influence of alcohol *per se* (current law requires IISP participation for a person *convicted* of these offenses) and (2) an individual who is convicted of or granted PBJ for driving while impaired by alcohol (under current law, with respect to impaired driving, participation is mandatory only for an individual convicted of committing an offense while transporting a minor younger than age 16 and drivers younger than age 21).

Current Law:

I. Expungements

In general, a person seeking expungement of records pertaining to a criminal charge must file a petition for expungement with the court under § 10-105 or § 10-110 of the Criminal Procedure Article. With some exceptions, § 10-105 applies to dispositions other than a conviction, and § 10-110 applies to expungements of convictions.

Expungement of a court or police record means removal from public inspection:

- by obliteration;
- by removal to a separate secure area to which persons who do not have a legitimate reason for access are denied access; or

- if access to a court record or police record can be obtained only by reference to another such record, by the expungement of that record, or the part of it that provides access.

Under § 10-105 of the Criminal Procedure Article, a person who has been charged with the commission of a crime for which a term of imprisonment may be imposed or who has been charged with a civil offense or infraction, except a juvenile offense, may file a petition for expungement of a police record, court record, or other record maintained by the State or a political subdivision of the State, under various circumstances listed in the statute. These grounds include acquittal, dismissal of charges, entry of PBJ, entry of *nolle prosequi*, *stet* of charge, and gubernatorial pardon. Individuals convicted of a crime that is no longer a crime, convicted of possession of cannabis under § 5-601 of the Criminal Law Article, convicted of or found not criminally responsible for specified public nuisance crimes or specified misdemeanors, or who had a conviction vacated due to being a victim of human trafficking (as defined in statute), are also eligible for expungement of the associated criminal records under certain circumstances.

In general, a petition for expungement under § 10-105 based on an acquittal, a *nolle prosequi*, or a dismissal may not be filed within three years after the disposition, unless the petitioner files a written waiver and release of all tort claims arising from the charge. A petition based on a PBJ may not be filed before the petitioner's discharge from probation or three years after the probation was granted, whichever is later. A petition based on a *stet* with the requirement of drug or alcohol abuse treatment may not be filed before the petitioner's completion of treatment or three years after the *stet* was entered on the docket, whichever is later. Otherwise, a petition based on *stet* or a compromise may not be filed within three years after the *stet* or compromise. A person is not entitled to expungement if (1) subject to a specified exception, the petition is based on the entry of PBJ and the person, within three years of the entry of the PBJ, has been convicted of a crime other than a minor traffic violation or a crime where the act on which the conviction is based is no longer a crime or (2) the person is a defendant in a pending criminal proceeding.

Pursuant to § 10-107 of the Criminal Procedure Article, if two or more charges, other than one for a minor traffic violation or possession of cannabis under § 5-601 of the Criminal Law Article, arise from the same incident, transaction, or set of facts, they are considered to be a unit. A charge for a minor traffic violation or possession of cannabis under § 5-601 of the Criminal Law Article that arises from the same incident, transaction, or set of facts as a charge in the unit is not a part of the unit. If a person is not entitled to expungement of one charge or conviction in a unit, the person is not entitled to expungement of any other charge or conviction in the unit.

II. Drunk Driving and Ignition Interlock System Program

A person may not drive or attempt to drive any vehicle while under the influence of alcohol or under the influence of alcohol *per se* or while impaired by alcohol. Driving under the influence of alcohol *per se* means driving with a blood alcohol concentration (BAC) of 0.08 or higher. BAC is measured, at the time of testing, as grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath.

Required Ignition Interlock System Use

In addition to any other penalty, a court *may* prohibit a person from driving a motor vehicle without an ignition interlock device for up to three years, if the person is convicted of or granted PBJ for a violation of driving under the influence of alcohol or under the influence of alcohol *per se*; driving while impaired by alcohol; or committing any of certain specified violations while transporting a minor.

An individual must participate in IISP if:

- convicted of driving while under the influence of alcohol or under the influence of alcohol *per se*;
- convicted of transporting a minor while impaired by alcohol, if the minor was younger than age 16;
- convicted of homicide or life-threatening injury by motor vehicle while under the influence of alcohol or under the influence of alcohol *per se*, impaired by alcohol, or impaired by a combination of one or more drugs and alcohol; or
- convicted of driving while impaired by alcohol or while impaired by a drug, combination of drugs, or combination of one or more drugs and alcohol, if the trier of fact finds beyond a reasonable doubt that the driver refused a test.

If an individual specified above fails to participate in or successfully complete the program, MVA must suspend the individual's license until the individual successfully completes the program.

In addition, an individual must participate in IISP as a condition of modification of a license suspension or revocation or issuance of a restricted license (1) if convicted of driving while impaired by alcohol, including an offense committed while transporting a minor, if the individual has been convicted of any specified alcohol- or drug-related driving offense within the preceding five years or (2) if the individual is younger than age 21, for a violation of an alcohol restriction or the prohibitions on driving while impaired by alcohol or while impaired by drugs or a combination of drugs and alcohol. These individuals face a

mandatory one-year license suspension for failure to participate in IISP or successfully complete the program.

Generally, an individual must participate in the program for (1) six months, for the first time the individual is required to participate; (2) one year, for the second time the individual is required to participate, and (3) three years, for the third or subsequent time the individual is required to participate.

An individual who is not otherwise required to participate in IISP may participate under specified circumstances, including if the individual's license is suspended or revoked for driving while impaired by alcohol or impaired by alcohol and drugs, if the individual's license has an alcohol restriction, or if MVA modifies a license suspension or issues the individual a restricted license.

For a more detailed discussion of the implementation of IISP in Maryland, please see the **Appendix – Ignition Interlock System Programs**.

Driving Under the Influence of Alcohol or Under the Influence of Alcohol Per Se

A person convicted of driving under the influence of alcohol or under the influence of alcohol *per se* is subject to maximum penalties of (1) for a first offense, a \$1,000 fine and/or 1 year imprisonment; (2) for a second offense, a \$2,000 fine and/or 2 years imprisonment; (3) for a third offense, a \$5,000 fine and/or 5 years imprisonment; and (4) for a fourth or subsequent offense, a \$10,000 fine and/or 10 years imprisonment.

Penalties for first and second offenses generally increase if the offense is committed while transporting a minor. A person convicted of driving under the influence of alcohol or under the influence of alcohol *per se* while transporting a minor is subject to maximum penalties of (1) for a first offense, a \$2,000 fine and/or 2 years imprisonment; (2) for a second offense, a \$3,000 fine and/or 3 years imprisonment; (3) for a third offense, a \$5,000 fine and/or 5 years imprisonment; and (4) for a fourth or subsequent offense, a fine of \$10,000 and/or 10 years imprisonment.

Driving While Impaired by Alcohol

A person convicted of driving while impaired by alcohol is subject to maximum penalties of (1) for a first offense, a fine of \$500 and/or two months imprisonment; (2) for a second offense, a fine of \$500 and/or 1 year imprisonment; (3) for a third offense, a \$5,000 fine and/or 5 years imprisonment; and (4) for a fourth or subsequent offense, a \$10,000 fine and/or 10 years imprisonment.

Penalties for first and second offenses generally increase if the offense is committed while transporting a minor. A person convicted of driving while impaired by alcohol while transporting a minor is subject to maximum penalties of (1) for a first offense, a fine of \$1,000 and/or 1 year imprisonment; (2) for a second offense, a \$2,000 fine and/or 2 years imprisonment; (3) for a third offense, a \$5,000 fine and/or 5 years imprisonment; and (4) for a fourth or subsequent offense, a \$10,000 fine and/or 10 years imprisonment.

Administrative Penalties

In addition to specified maximum monetary and incarceration penalties, alcohol- and drug-related offenses are subject to points assessment by MVA, which makes the driver subject to either suspension or revocation of the driver's license. For a conviction of driving while under the influence of alcohol or under the influence of alcohol *per se* or while impaired by a controlled dangerous substance (CDS), MVA must assess 12 points against the driver's license, and the license is subject to revocation. For a conviction of driving while impaired by alcohol, a drug, combination of drugs, or combination of one or more drugs and alcohol, MVA must assess 8 points against the driver's license, and the license is subject to suspension. A driver who accumulates 8 or 12 points against his or her driver's license within a two-year period is subject to license suspension or revocation, respectively.

License Revocation and Suspension

MVA is required to revoke the license of any person who has been convicted of homicide by motor vehicle while under the influence of alcohol; impaired by alcohol; impaired by a drug, any combination of drugs, or a combination of one or more drugs and alcohol; or impaired by a CDS.

Statute includes additional provisions regarding MVA license suspension and revocation. For example, MVA may revoke the license of an individual who is convicted of driving while impaired by alcohol or while impaired by a drug, a combination of drugs, or a combination of one or more drugs and alcohol and who was previously convicted of two or more specified drunk or drugged driving violations within a three-year period.

In addition, MVA may impose a suspension for up to one year if an individual is convicted more than once within a five-year period of any combination of drunk or drugged driving offenses; however, a restricted license for the period of suspension may be issued to a person who participates in IISP.

State Revenues: The bill expands the circumstances under which participation in IISP is mandatory. According to figures provided by the Maryland Department of Transportation, the bill results in approximately 5,570 additional participants annually, based on the average annual number of individuals granted PBJ for driving while under the influence of

alcohol or under the influence of alcohol *per se* and the average annual number of individuals convicted of or granted PBJ for driving while impaired by alcohol from 2019 to 2021 and the 2022 rate of IISP participation among a representative sample of individuals. To enroll in the program, an individual must pay a \$47 participation fee and a \$20 fee to obtain a license with an interlock restriction. Accordingly, TTF revenues increase by an estimated \$373,200 annually.

State Expenditures:

I. Expungements

Judiciary

General fund expenditures for the Judiciary increase by *as much as* \$1.3 million in fiscal 2025, which accounts for a 90-day start-up delay from the bill’s October 1, 2024 effective date. This estimate reflects the cost of hiring 17 clerks among the District Court and the circuit courts to process expungements under the bill. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Positions	17.0
Salaries and Fringe Benefits	\$1,163,082
Operating Expenses	<u>127,942</u>
Maximum FY 2025 Judiciary Expenditures	\$1,291,024

Future year expenditures reflect full salaries with annual increases and employee turnover as well as annual increases in ongoing operating expenses.

According to the Judiciary, the following probations before judgment for violations of § 21-902 of the Transportation Article were entered in the District Court and the circuit courts:

- in fiscal 2022: 5,598 in the District Court and 716 in the circuit courts; and
- in fiscal 2023: 6,509 in the District Court and 1,012 in the circuit courts.

Based on data regarding dispositions eligible for expungement under the bill (including older dispositions) and estimated processing times for expungements, the Judiciary anticipates the need for at least 15 clerks in the District Court and 2 clerks in the circuit courts. While data is not available on the projected number of petitions that will be filed under the bill, given the cumulative number of eligible dispositions, the Department of Legislative Services (DLS) agrees that there may be a need for additional personnel. To the extent that fewer petitions than anticipated are filed or personnel can process

expungements more efficiently than currently projected, expenditures for the Judiciary are less.

DLS also notes that the fiscal 2023 budget included 41 positions and \$3.0 million for the Judiciary to process cannabis expungements. The Judiciary advises that 33 of these positions have been filled – 12 in the District Court (3 in jurisdictions with a high volume of expungements overall and a 9-person expungement center to address potential filings from cannabis legalization) and 21 in the circuit courts. While the number of expungement petitions filed in the District Court increased in fiscal 2023 compared to fiscal 2022, it is still lower than previous years. Because the volume of cannabis expungement petition filings has been lower than expected, the staff in the expungement center have been preparing for expungements required under Chapter 680 of 2021, which essentially established automatic expungements for cases resulting in specified dispositions and will commence beginning October 1, 2024. Given the additional clerical resources recently provided to the Judiciary and the lower than anticipated volume for cannabis expungements, existing personnel *may* be able to absorb some of the extra workload anticipated under the bill, which may further reduce expenditures.

Exhibit 1 contains information on the number of petitions for expungement filed in the trial courts in fiscal 2020 through 2022.

Exhibit 1
Petitions for Expungement
Fiscal 2021-2023

	<u>District Court</u>	<u>Circuit Court</u>
Fiscal 2021	39,061	5,940
Fiscal 2022	32,874	5,574
Fiscal 2023	38,563	7,688

Source: Maryland Judiciary

The Judiciary further advises that the bill requires changes to forms, brochures, and an instructional video, at a cost of \$11,740 (including restocking costs). DLS advises that given the frequency of changes to the expungement statutes in recent years, these are routine expenditures and can be implemented with existing budgeted resources.

Department of Public Safety and Correctional Services

General fund expenditures may increase for the Department of Public Safety and Correctional Services (DPSCS) to process expungement orders under the bill. DPSCS advises generally that the Criminal Justice Information System (CJIS) requires one additional administrative employee for every 2,500 additional orders for expungement it receives. However, DLS notes that CJIS has been routinely accommodating workloads beyond the 2,500-caseload standard. The number of additional clerks needed cannot be reliably determined at this time and depends on the number of expungement orders issued by courts under the bill. *For illustrative purposes only*, the cost associated with hiring one administrative employee is approximately \$75,943 in fiscal 2025 and similar amounts annually thereafter.

Department of State Police

The Department of State Police advises that it can implement the bill with existing budgeted resources.

II. Ignition Interlock System Program

As discussed above, an additional 5,570 interlock cases annually are anticipated as a result of the bill. MVA advises that existing staff can likely absorb these additional cases. Additionally, MVA advises that it can absorb the one-time programming changes that must be completed to the MVA Customer Connect system with existing budgeted resources. Finally, any impact on caseloads for the Judiciary or OAH due to the bill's changes is not expected to materially affect State finances.

Local Expenditures: The bill has an operational effect on local police departments and other entities that are custodians of records eligible for expungement under the bill. Depending on the volume of expungement orders received from the courts and the capacity to absorb this additional workload with existing resources, the bill may require additional local resources. However, Anne Arundel, Baltimore, and Frederick counties do not anticipate a fiscal impact.

Small Business Effect: Authorized service providers for IISP likely see a significant increase in monthly maintenance fees due to an increased number of individuals participating in IISP. In addition, small businesses that employ commercial driver's license holders may be affected to the extent that any of their drivers must participate in IISP due to the bill's changes.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years; however, legislation with similar provisions has been proposed. For example, see SB 505, SB 528, and HB 451 of 2023; HB 557 and SB 653 of 2022; and HB 749 and SB 672 of 2021.

Designated Cross File: HB 867 (Delegate Alston, *et al.*) - Judiciary.

Information Source(s): Anne Arundel, Baltimore, and Frederick counties; Judiciary (Administrative Office of the Courts); Office of the Public Defender; Maryland State’s Attorneys’ Association; Department of General Services; Department of Natural Resources; Department of Public Safety and Correctional Services; Department of State Police; Maryland Department of Transportation; Maryland State Archives; Office of Administrative Hearings; Department of Legislative Services

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Appendix – Ignition Interlock System Programs

An ignition interlock device connects a motor vehicle's ignition system to a breath analyzer that measures a driver's blood alcohol concentration (BAC). The device prevents the car from starting if the driver's BAC exceeds a certain level and periodically retests the driver after the motor vehicle has been started. According to the National Conference of State Legislatures (NCSL), all 50 states and the District of Columbia authorize or mandate the use of an ignition interlock device to deter alcohol-impaired driving. The Maryland Ignition Interlock System Program (IISP) was established through regulation in 1989 and codified by Chapter 648 of 1996. The Motor Vehicle Administration (MVA) in the Maryland Department of Transportation is responsible for administering IISP.

Drivers may elect to participate in IISP or may be referred to the program by a court, the administration, and administrative law judges. Since 2011, IISP has undergone various changes that have increased the number of alcohol-impaired drivers who are either mandated or authorized to participate in the program.

A driver who had a BAC test result of 0.15 or more or who refused to take a test is only eligible for a modification of a license suspension if the driver participates in the program for one year.

The following drivers are required to participate in IISP and face an indefinite mandatory license suspension if they fail to participate or successfully complete the program:

- a person convicted of driving or attempting to drive under the influence of alcohol or under the influence of alcohol *per se* (including a person whose license is suspended or revoked for a conviction of these offenses under a specified provision or for an accumulation of points for these violations);
- a person required to participate by court order due to a conviction for driving while impaired by alcohol or while impaired by a drug, any combination of drugs, or a combination of one or more drugs and alcohol, and the trier of fact found beyond a reasonable doubt that the person refused a requested test;
- a person convicted of homicide by motor vehicle while under the influence of alcohol or under the influence of alcohol *per se*; impaired by alcohol; or impaired by a drug, a combination of drugs, or a combination of one or more drugs and alcohol;
- a person convicted of life-threatening injury by motor vehicle while under the influence of alcohol or under the influence of alcohol *per se*; impaired by alcohol; or impaired by a drug, a combination of drugs, or a combination of one or more drugs and alcohol; and

- a person convicted of transporting a minor while impaired by alcohol and the minor was younger than age 16.

The following drivers are required to participate in IISP as a condition of modification of a suspension or revocation of a license or issuance of a restricted license and face a one-year mandatory license suspension if they fail to participate or successfully complete participation in the program:

- a driver ordered by a criminal court to participate in the program for a drunk driving offense;
- a driver who is convicted of driving while impaired by alcohol and within the preceding five years was convicted of a drunk or drugged driving offense; or
- a driver younger than age 21 who violated the alcohol restriction on the driver's license or violated specified impaired driving prohibitions.

Exhibit 1 summarizes the categories of offenders required to participate in IISP and their minimum participation periods.

A participant is considered to have successfully completed IISP when the service provider certifies to MVA that during the three consecutive months preceding the participant's date of release there was not:

- an attempt to start a vehicle with a BAC of 0.04 or higher, unless a subsequent test performed within 10 minutes registered a BAC lower than 0.04;
- a failure to take or pass a random test with a BAC of 0.025 or lower, unless a subsequent test performed within 10 minutes registered a BAC lower than 0.025; or
- a failure of the participant to appear at the approved service provider for required maintenance, repair, calibration, monitoring, inspection, or device replacement.

Chapters 65 and 66 of 2019 modified the definition of "ignition interlock system" to mean, among other things, that the device has a camera (1) with the capability of recording still images of the person taking the test of the person's blood alcohol level; (2) without the capability to record sound; (3) without the capability to record video; and (4) that records images only while the device is testing the blood alcohol level of the person taking the test or if the device is being tampered with.

Exhibit 2 provides an overview of IISP participation since enactment of Chapter 557 of 2011, up through fiscal 2021. MVA advises that, between October 1, 2011, and September 30, 2021, 3,924 drivers who were removed from IISP for noncompliance reentered the program at a later time. MVA advises that in fiscal 2021 there were 15,185 unique drivers in IISP and 4,858 first-time referrals.

Exhibit 1
Mandatory Participation in the Ignition Interlock System Program

Category of Participant	Participation Period
Driver who committed administrative <i>per se</i> offense of refusing to take a test or took a test with a BAC result of 0.15 or more ¹	One year
Driver convicted of driving while under the influence of alcohol or under the influence of alcohol <i>per se</i> with a BAC test result of 0.08 or more ² Driver convicted of either (1) homicide by motor vehicle or (2) life-threatening injury by motor vehicle while under the influence of alcohol or under the influence of alcohol <i>per se</i> ; impaired by alcohol; or impaired by a drug, a combination of drugs, or a combination of drugs and alcohol ²	Six months for the first time the driver is required to participate One year for the second time the driver is required to participate Three years for the third or subsequent time the driver is required to participate
Driver convicted of transporting a minor while impaired by alcohol and the minor was younger than age 16 ³ Subsequent offender convicted of driving while impaired by alcohol and, within the preceding five years, convicted of any drunk or drugged driving offense in the Transportation Article ⁴	Six months for the first time the driver is required to participate One year for the second time the driver is required to participate Three years for the third or subsequent time the driver is required to participate
Driver younger than age 21 who violated the license alcohol restriction or violated the prohibitions on driving while impaired by alcohol or while impaired by drugs or a combination of drugs and alcohol ⁵	Six months for the first time the driver is required to participate One year for the second time the driver is required to participate Three years for the third or subsequent time the driver is required to participate

BAC: blood alcohol concentration

¹ Participation is considered “mandatory” because a driver who commits these offenses is only eligible for a modification of a license suspension if the driver participates for one year.

² Chapter 512 of 2016.

³ Chapter 631 of 2014.

⁴ Chapter 557 of 2011.

⁵ Chapter 557 of 2011 and Chapter 512 of 2016.

Note: A driver ordered by a criminal court to participate in the program because of a drunk driving offense is subject to the general length of participation described above (*i.e.*, six months, one year, or three years). However, a court may order the driver to participate for a longer period of time, not to exceed three years.

Source: Department of Legislative Services

Exhibit 2
Ignition Interlock System Program Participation
Fiscal 2013-2021

<u>Fiscal Year</u>	<u>Total Annual Participation</u>	<u>Successful Completions</u>	<u>Unsuccessful Participants</u>
2013	14,884	4,383	2,496
2014	15,299	4,648	2,569
2015	15,171	4,842	2,634
2016	14,816	4,901	1,153
2017	16,289	4,307	1,293
2018	18,373	5,575	1,797
2019	19,411	6,521	2,078
2020	17,854	6,815	2,450
2021	15,185	5,818	2,172

Source: Maryland Department of Transportation

National Safety Trends

According to data from the National Highway Traffic Safety Administration (NHTSA), nationally, the percentage of highway fatalities associated with alcohol impairment has hovered around 30% from 1995 through 2020. In 2021, the latest year for which national data is available, there were 42,939 traffic fatalities nationally, of which 13,384 of those fatalities, or 31%, involved a driver with a BAC of 0.08 or higher. For the same period in Maryland, out of a total of 511 traffic fatalities, 163, or 32%, involved a driver with a BAC of 0.08 or higher.

Recent national data indicates that risky driving behaviors, including impaired driving, increased following the onset of the COVID-19 pandemic in March 2020. According to NHTSA, total traffic fatalities on U.S. roadways increased by 7.3% from 2019 to 2020 and a further 10.1% from 2020 to 2021. The overall national traffic fatality *rate*, as measured in fatalities per 100 million vehicle miles traveled, increased by 21% in 2020 compared to 2019. The overall national traffic fatality *rate* increased again from 2020 to 2021, but at a much slower pace of 2.2%. According to NHTSA’s preliminary traffic fatality estimates for 2022 and 2023, the increased trend in traffic fatalities observed in 2020 and 2021 has abated. The preliminary estimates show that fatalities have declined in the five most recent quarters (from the second quarter of 2022 through the second quarter of 2023) for which estimates have been published.

Model Guidelines for State Ignition Interlock Programs and Maryland Task Force Recommendations

Traffic safety advocates are concerned about the proportion of traffic fatalities due to alcohol impairment, which has decreased only slightly in recent decades. Accordingly, NHTSA has recommended that states increase the use of ignition interlock devices to address alcohol-impaired driving. In November 2013, NHTSA released *Model Guidelines for State Ignition Interlock Programs*. The document, which still represents the most current model guidelines, contains recommendations for legislation and administrative changes to improve program administration, vendor oversight, data security and privacy, device reliability, and driver notification and licensing. According to the 2008 final report of the Maryland Task Force to Combat Driving Under the Influence of Drugs and Alcohol, the use of ignition interlock devices has been shown to lead to long-lasting changes in driver behavior and reduced recidivism. The task force advised that a minimum of six months of failure-free use is needed to significantly reduce recidivism. The task force reported that, when offenders are required to use ignition interlock devices, recidivism is reduced by at least 60% and as much as 95%.

Use of Ignition Interlock in Other States

According to NCSL, all 50 states and the District of Columbia authorize or mandate the use of an ignition interlock device to deter alcohol-impaired driving, and 31 states (Alabama, Alaska, Arizona, Arkansas, Colorado, Connecticut, Delaware, Hawaii, Idaho, Illinois, Iowa, Kansas, Kentucky, Louisiana, Maryland, Mississippi, Nebraska, New Hampshire, New Jersey, New Mexico, New York, Oklahoma, Oregon, South Carolina, Tennessee, Texas, Utah, Vermont, Virginia, Washington, and West Virginia) and the District of Columbia mandate the use of ignition interlock for any drunk driving conviction. Seven states (Florida, Michigan, Minnesota, North Carolina, Pennsylvania, Rhode Island, and Wyoming) require the use of ignition interlock for high BAC (0.10 or higher) offenders and repeat offenders, and 5 states (Georgia, Maine, Massachusetts, Missouri, and Ohio) require only repeat offenders to use ignition interlock. In the remaining states, judges have the discretion to order installation as part of sentencing for convicted drunk drivers.

States are also experimenting with ways to improve participant accountability and program compliance. As of October 2021, NCSL reports that 21 states (Arizona, Colorado, Florida, Hawaii, Idaho, Illinois, Kentucky, Maryland, Michigan, Minnesota, Missouri, Nebraska, New Hampshire, New York, Oregon, South Dakota, Tennessee, Texas, Vermont, Virginia, and Washington) require ignition interlock devices to contain a camera. The captured images are intended to ensure that the correct person is using the device to start the vehicle. Some states have also implemented “24/7 Sobriety Monitoring” programs, which combine

treatment and punitive sanctions such as breath and urine testing, ankle bracelets, transdermal drug patches, and incarceration. NCSL reports that, as of September 2021, 14 states have 24/7 sobriety monitoring programs or pilot programs at the state or county level (Alaska, Florida, Hawaii, Idaho, Iowa, Montana, Nebraska, Nevada, North Dakota, South Dakota, Utah, Washington, Wisconsin, and Wyoming).