

Department of Legislative Services
Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 939

(Senator King)

Judicial Proceedings

Criminal Law - Reckless Endangerment - Use of Motor Vehicle

This bill repeals an exclusion to the crime of reckless endangerment that specifies that a person's conduct involving the use of a motor vehicle does not constitute reckless endangerment even if the conduct creates a substantial risk of death or serious injury to another person.

Fiscal Summary

State Effect: Minimal increase in general fund revenues due to the bill's expanded application of an existing monetary penalty provision. As discussed below, general fund expenditures may increase significantly for the Office of the Public Defender (OPD) and minimally for the Department of Public Safety and Correctional Services (DPSCS) depending on the bill's overall effect on prosecutions, convictions, and incarcerations for reckless endangerment.

Local Effect: Minimal increase in local revenues and expenditures due to the bill's expanded application of an existing penalty provision.

Small Business Effect: None.

Analysis

Current Law: A person commits the offense of reckless endangerment if the person recklessly (1) engages in conduct that creates a substantial risk of death or serious physical injury to another or (2) discharges a firearm from a motor vehicle in a manner that creates a substantial risk of death or serious physical injury to another. If, however, a person's reckless conduct involves the use of a motor vehicle or the manufacture, production, or

sale of a product or commodity, that conduct does not constitute reckless endangerment, regardless of whether the person creates a substantial risk of death or serious physical injury to another. Exclusions for law enforcement and self-defense apply to the firearm-related provision. A person who commits reckless endangerment is guilty of a misdemeanor, punishable by imprisonment for up to five years and/or a maximum fine of \$5,000.

Reckless driving is the operation of a motor vehicle (1) in wanton or willful disregard for the safety of persons or property or (2) in a manner that indicates a wanton or willful disregard for the safety of persons or property. A person convicted of a reckless driving offense is guilty of a misdemeanor and subject to a fine of up to \$1,000. The District Court assesses a prepayment penalty of \$510 for reckless driving; upon conviction, the Motor Vehicle Administration must assess six points against a violator's driver's license.

State Revenues: General fund revenues increase minimally from fines imposed in the District Court as a result of the bill's expanded application of the monetary penalty provision for reckless endangerment. The magnitude of the increase in fine revenues depends upon charging and sentencing practices and the monetary value of fines actually collected from defendants.

State Expenditures: As a result of the bill, most individuals charged with reckless driving could instead be charged with reckless endangerment (or could be charged with both offenses). The extent to which prosecutors will exercise this authority is unclear without actual experience under the bill. The number of people convicted of and sentenced for reckless endangerment as altered under the bill cannot be reliably predicted at this time and depends on charging and sentencing practices in the State. While reckless driving only carries a maximum penalty of a \$1,000 fine, a person convicted of reckless endangerment faces imprisonment for up to five years and/or a fine of up to \$5,000.

Relevant Offense Data

Exhibit 1 features data from the Maryland Judiciary on the number of violations (charges) and convictions under § 3-204 of the Criminal Law Article for reckless endangerment in the District Court and the circuit courts for fiscal 2022 and 2023.

Exhibit 1
Violations and Convictions for Reckless Endangerment

<u>Fiscal Year</u>	<u>District Court Violations</u>	<u>District Court Convictions</u>	<u>Circuit Court Violations</u>	<u>Circuit Court Convictions</u>
2022	4,494	92	2,643	296
2023	4,772	91	3,222	297

Source: Maryland Judiciary

Exhibit 2 contains information on the number of violations (charges) and convictions under § 21-901.1(a) of the Transportation Article for reckless driving in the District Court and the circuit courts for fiscal 2022 and 2023.

Exhibit 2
Violations and Convictions for Reckless Driving

<u>Fiscal Year</u>	<u>District Court Violations</u>	<u>District Court Convictions</u>	<u>Circuit Court Violations</u>	<u>Circuit Court Convictions</u>
2022	12,252	641	1,704	67
2023	11,257	508	1,732	79

Source: Maryland Judiciary

Office of the Public Defender

According to OPD, the bill's change to the reckless endangerment statute could result in significantly more cases for OPD. Because it is a non-incarcerable offense, OPD does not provide legal representation for individuals charged with reckless driving. OPD advises that the bill makes the elements of reckless driving and reckless endangerment similar enough that almost all of the approximately 13,000 violations charged for reckless driving in fiscal 2023 could have been charged as reckless endangerment if the bill had been effective at that time. OPD estimates that, if 70% of individuals who would have formerly been charged with reckless driving are instead charged with reckless endangerment and OPD represents 85% of those individuals, its annual caseload would increase by more than 7,700 cases. Under these assumptions, OPD estimates that it would need to hire seven and one-half attorneys and two secretaries to handle the increased workload. The fiscal impact

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for the staff required (as estimated by OPD) is approximately \$836,000 in fiscal 2025 and increases to over \$1.1 million by fiscal 2029.

The Department of Legislative Services agrees that additional staff is necessary but advises that without actual experience under the bill, the magnitude of OPD's expected caseloads and corresponding staffing needs is unclear. *For illustrative purposes only*, the cost to hire one assistant public defender for the first full fiscal year is approximately \$125,800 and the cost to hire one secretary is approximately \$69,500.

Judiciary

The Judiciary advises that it does not anticipate a significant operational or fiscal impact on the trial courts as a result of the bill.

Department of Public Safety and Correctional Services

Depending on charging and sentencing practices, general fund expenditures for DPSCS increase minimally due to more people being committed to State correctional facilities for reckless endangerment and increased payments to counties for reimbursement of costs for incarcerated individuals. As noted above, 587 individuals were convicted of reckless driving under existing statute during fiscal 2023. An unknown portion of these individuals could be incarcerated under the bill. Information regarding the average sentence for reckless endangerment is not readily available at this time.

Persons serving a sentence longer than 18 months are incarcerated in State correctional facilities. Currently, the average total cost per incarcerated individual, including overhead, is estimated at \$5,110 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 incarcerated individuals and for (1) incarcerated individuals who are sentenced to and awaiting transfer to the State correctional system; (2) sentenced incarcerated individuals confined in a local detention center between 12 and 18 months; and (3) incarcerated individuals 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: Local revenues increase minimally from fines imposed in the circuit courts for reckless endangerment. The magnitude of this increase depends upon charging and sentencing practices and the monetary value of fines actually collected from defendants.

Local Expenditures: Local incarceration expenditures increase minimally due to additional individuals being incarcerated for reckless endangerment offenses. Depending on changes to caseloads and workloads, the bill may have an operational effect on State's Attorneys' offices.

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 \$90 to \$300 per inmate in recent years.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: HB 1111 (Delegate Wims) - Judiciary.

Information Source(s): Baltimore and Frederick counties; Maryland State Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Office of the Public Defender; Maryland State's Attorneys' Association; Department of Public Safety and Correctional Services; Department of State Police; Maryland Department of Transportation; Department of Legislative Services

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