

Department of Legislative Services
Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 87

(Senator Carozza, *et al.*)

Judicial Proceedings

**Homicide or Life-Threatening Injury by Motor Vehicle or Vessel - Parole
Eligibility and Penalties**

This bill (1) curtails parole eligibility for incarcerated individuals convicted of specified criminal offenses, committed on or after October 1, 2024, by revising the definition of “violent crime” under § 7-101 of the Correctional Services Article to include those offenses; (2) increases incarceration penalties for individuals convicted of certain crimes involving homicide by motor vehicle or vessel, manslaughter by motor vehicle or vessel, or life-threatening injury by motor vehicle or vessel; (3) establishes subsequent offender penalties for individuals convicted of causing life-threatening injury by operating a motor vehicle or vessel in a criminally negligent manner; and (4) requires that a conviction for causing life-threatening injury by operating a motor vehicle or vessel in a criminally negligent manner be treated as a prior conviction for purposes of determining subsequent offender penalties for specified criminal offenses.

Fiscal Summary

State Effect: General fund expenditures increase minimally for the Department of Public Safety and Correctional Services (DPSCS), mostly in the out-years, as individuals serve longer sentences under the bill. The Judiciary and the Office of the Public Defender can handle any increased workload as a result of the bill with existing budgeted resources. Revenues are not affected.

Local Effect: The bill does not materially affect local government operations or finances.

Small Business Effect: None.

Analysis

Bill Summary:

Definition of Violent Crime

The bill expands the definition of “violent crime” under § 7-101 of the Correctional Services Article (definitions for parole, etc.) to include the following criminal offenses committed on or after October 1, 2024:

- manslaughter by vehicle or vessel (gross negligence) – § 2-209 of the Criminal Law Article;
- manslaughter by vehicle or vessel (criminal negligence) – § 2-210 of the Criminal Law Article;
- homicide by motor vehicle or vessel while under the influence of alcohol or under the influence of alcohol *per se* – § 2-503 of the Criminal Law Article;
- homicide by motor vehicle or vessel while impaired by alcohol – § 2-504 of the Criminal Law Article;
- homicide by motor vehicle or vessel while impaired by drugs – § 2-505 of the Criminal Law Article;
- homicide by motor vehicle or vessel while impaired by a controlled dangerous substance (CDS) – § 2-506 of the Criminal Law Article;
- life-threatening injury by motor vehicle or vessel while under the influence of alcohol and related crimes – § 3-211 of the Criminal Law Article; and
- life-threatening injury involving a motor vehicle or vessel (criminal negligence) – § 3-212.1 of the Criminal Law Article.

Increased Incarceration Penalties

The bill increases maximum incarceration penalties for the offenses of (1) manslaughter by vehicle or vessel (criminal negligence); (2) homicide by motor vehicle or vessel while under the influence of alcohol or under the influence of alcohol *per se*; (3) homicide by motor vehicle or vessel while impaired by alcohol; (4) homicide by motor vehicle or vessel while impaired by drugs; (5) homicide by motor vehicle or vessel while impaired by a CDS; (6) life-threatening injury by motor vehicle or vessel while under the influence of alcohol or under the influence of alcohol *per se*; (7) life-threatening injury by motor vehicle or vessel while impaired by alcohol; (8) life-threatening injury by motor vehicle or vessel while impaired by drugs; (9) life-threatening injury by motor vehicle or vessel while impaired by a CDS; and (10) life-threatening injury involving a motor vehicle or vessel (criminal negligence). Notably, the bill does not increase maximum incarceration penalties for the offense of manslaughter by vehicle or vessel (gross negligence). **Exhibit 1** displays the current maximum incarceration penalties and the increased maximum incarceration penalties established by the bill for these offenses.

Exhibit 1
Maximum Penalties (Under Current Law and Under the Bill) for Specified
Manslaughter, Homicide, and Life-Threatening Injury by Vehicle or Vessel
Offenses

<u>Offense</u>		<u>Maximum Incarceration Penalties</u>	
		<u>Under Current Law</u>	<u>Under the Bill</u>
Manslaughter by vehicle or vessel (gross negligence)	First Offense	10 years	10 years
	Subsequent Offense	15 years	15 years
Manslaughter by vehicle or vessel (criminal negligence)	First Offense	3 years	5 years
	Subsequent Offense	5 years	10 years
Homicide by motor vehicle or vessel while under the influence of alcohol or alcohol <i>per se</i>	First Offense	5 years	10 years
	Subsequent Offense	10 years	15 years
Homicide by motor vehicle or vessel while impaired by alcohol	First Offense	3 years	5 years
	Subsequent Offense	5 years	10 years
Homicide by motor vehicle or vessel while impaired by drugs	First Offense	5 years	10 years
	Subsequent Offense	10 years	15 years
Homicide by motor vehicle or vessel while impaired by a CDS	First Offense	5 years	10 years
	Subsequent Offense	10 years	15 years
Life-threatening injury by motor vehicle or vessel while under the influence of alcohol or alcohol <i>per se</i>	First Offense	3 years	3 years
	Subsequent Offense	5 years	10 years
Life-threatening injury by motor vehicle or vessel while impaired by alcohol	First Offense	2 years	2 years
	Subsequent Offense	5 years	8 years
Life-threatening injury by motor vehicle or vessel while impaired by drugs	First Offense	2 years	3 years
	Subsequent Offense	5 years	10 years
Life-threatening injury by motor vehicle or vessel while impaired by a CDS	First Offense	3 years	3 years
	Subsequent Offense	5 years	10 years
Life-threatening injury involving a motor vehicle or vessel (criminal negligence)	First Offense	1 year	1 year
	Subsequent Offense	N/A	5 years

Source: Department of Legislative Services

Subsequent Offender Penalties

Life-threatening Injury Involving a Motor Vehicle or Vessel (Criminal Negligence): The bill establishes a subsequent offender penalty for this offense. Accordingly, an individual convicted of the offense of causing life-threatening injury involving a motor vehicle or vessel (criminal negligence), who has previously been convicted of this offense or another specified offense involving homicide by motor vehicle or vessel, manslaughter by motor vehicle or vessel, life-threatening injury by motor vehicle or vessel, or drunk or drugged driving, is subject to imprisonment for up to five years and/or a maximum fine of \$10,000. A conviction for a crime committed in another state or federal jurisdiction that, if committed in Maryland, would constitute a violation of any of the specified provisions is considered a violation for purposes of the subsequent offender penalties imposed under the bill.

Application to Other Specified Offenses: The bill specifies that a conviction for causing life-threatening injury involving a motor vehicle or vessel (criminal negligence) constitutes a prior conviction for purposes of determining subsequent offender penalties for the following criminal offenses: (1) manslaughter by vehicle or vessel (gross negligence); (2) manslaughter by vehicle or vessel (criminal negligence); (3) homicide by motor vehicle or vessel while under the influence of alcohol or under the influence of alcohol *per se*, impaired by alcohol, impaired by drugs, or impaired by a CDS; and (4) life-threatening injury by motor vehicle or vessel while under the influence of alcohol or under the influence of alcohol *per se*, impaired by alcohol, impaired by drugs, or impaired by a CDS.

Current Law:

Definition of Violent Crime

Section 7-101 of the Correctional Services Article defines “violent crime” as a crime of violence as defined in § 14-101 of the Criminal Law Article or burglary in the first, second, or third degree. Section 14-101 of the Criminal Law Article defines a “crime of violence” as (1) abduction; (2) arson in the first degree; (3) kidnapping; (4) manslaughter, except involuntary manslaughter; (5) mayhem; (6) maiming; (7) murder; (8) rape; (9) robbery; (10) carjacking (including armed carjacking); (11) first- and second-degree sexual offenses; (12) use of a firearm in the commission of a felony or other crime of violence, except possession with intent to distribute a CDS; (13) child abuse in the first degree; (14) sexual abuse of a minor under specified circumstances; (15) home invasion; (16) felony sex trafficking and forced marriage; (17) an attempt to commit crimes listed above as (1) through (16); (18) continuing course of certain sexual conduct with a child; (19) assault in the first degree; and (20) assault with intent to murder, rape, rob, or commit a sexual offense in the first or second degree.

Parole Eligibility and Mandatory Supervision

Parole is a discretionary and conditional release from imprisonment determined after a hearing for an incarcerated individual who is eligible to be considered for parole. If parole is granted, the incarcerated individual is allowed to serve the remainder of the sentence in the community, subject to the terms and conditions specified in a written parole order. The Maryland Parole Commission has jurisdiction over parole decisions for eligible incarcerated individuals sentenced to State correctional facilities and local detention centers.

An incarcerated individual sentenced for a violent crime (as defined under § 7-101 of the Correctional Services Article) committed on or after October 1, 1994, is not eligible for parole until after having served the greater of one-half of their aggregate sentence for violent crimes or one-fourth of their total aggregate sentence. If the incarcerated individual has been sentenced to more than one term of imprisonment, including a term during which the incarcerated individual is not eligible for parole, the incarcerated individual is also not eligible for parole until they have served a period equal to the term during which they are not eligible for parole. An incarcerated individual convicted of a violent crime committed on or after October 1, 2009, is not eligible for a conditional release until after the incarcerated individual becomes eligible for parole.

Manslaughter, Homicide, and Life-threatening Injury by Vehicle or Vessel Offenses

An individual who commits one of the offenses listed below (except for causing a life-threatening injury by motor vehicle or vessel in a criminally negligent manner), having previously been convicted of any of those offenses or specified drunk or drugged driving offenses, is subject to increased incarceration penalties if convicted (as shown earlier in Exhibit 1). Additionally, a conviction for a crime committed in another state or federal jurisdiction that, if committed in Maryland, would constitute a violation of any of these statutory provisions is considered a violation for purposes of applying subsequent offender penalties.

Manslaughter by Vehicle or Vessel Offenses: An individual may not cause the death of another as the result of the individual's driving, operating, or controlling a motor vehicle or vessel in a grossly negligent or criminally negligent manner. Manslaughter by vehicle or vessel (gross negligence) and manslaughter by vehicle or vessel (criminal negligence) are both felonies. An individual who commits manslaughter by vehicle or vessel (gross negligence), upon conviction, is subject to imprisonment of up to 10 years and/or a fine of up to \$5,000 for a first offense; specified subsequent offenders face a penalty of imprisonment for up to 15 years and/or a \$10,000 maximum fine. An individual convicted of manslaughter by vehicle or vessel (criminal negligence) is subject to imprisonment for

up to 3 years and/or a fine of up to \$5,000 as a first-time offender and 5 years and/or a fine of up to \$10,000 as a subsequent offender.

Homicide by Vehicle or Vessel Offenses: An individual may not cause the death of another as a result of the individual's driving, operating, or controlling a motor vehicle or vessel while (1) under the influence of alcohol or under the influence of alcohol *per se*; (2) impaired by alcohol; (3) impaired by drugs; or (4) impaired by a CDS. All of these offenses are felonies. An individual convicted of homicide by motor vehicle or vessel while impaired by alcohol is subject to a maximum penalty of 3 years of imprisonment and/or a \$5,000 maximum fine for a first offense and up to 5 years imprisonment and/or a \$10,000 maximum fine for a subsequent offense. Otherwise, an individual convicted of one of these offenses is subject to imprisonment for up to 5 years and/or a \$5,000 maximum fine for a first offense and imprisonment for up to 10 years and/or a \$10,000 maximum fine for a subsequent offense.

Life-threatening Injury by Vehicle or Vessel Offenses: An individual is prohibited from causing a life-threatening injury to another as a result of the individual's driving, operating, or controlling a motor vehicle or vessel in a (1) criminally negligent manner or (2) negligent manner while under the influence of alcohol or under the influence of alcohol *per se*, impaired by alcohol, impaired by drugs, or impaired by a CDS. These offenses are all misdemeanors.

An individual convicted of causing a life-threatening injury by motor vehicle or vessel while under the influence of alcohol or under the influence of alcohol *per se* or while impaired by a CDS is subject to up to 3 years of imprisonment and/or a fine of up to \$5,000 for a first-time offense and up to 5 years imprisonment and/or a \$10,000 maximum fine for a subsequent offense.

For an individual convicted of causing a life-threatening injury by motor vehicle or vessel while impaired by alcohol or impaired by drugs, the individual is subject to a maximum of 2 years of imprisonment and/or a maximum fine of \$3,000 for a first offense and a maximum of 5 years imprisonment and/or a \$10,000 maximum fine for a subsequent offense. Finally, an individual convicted of causing a life-threatening injury by motor vehicle or vessel in a criminally negligent manner is subject to a maximum of 1 year of imprisonment and/or a maximum fine of \$5,000.

State Expenditures: Based on currently available data, general fund expenditures for DPSCS increase, minimally and mostly in the out-years, as a result of the bill's changes to penalties and parole eligibility for individuals convicted of specified offenses involving homicide by motor vehicle or vessel, manslaughter by motor vehicle or vessel, or life-threatening injury by motor vehicle or vessel.

Offense Data

Comprehensive data regarding charges and convictions for the offenses affected by the bill is not readily available. According to DPSCS, during fiscal 2023, the Division of Correction conducted intake on 39 individuals for the offenses affected by the bill; 14 of these individuals were subsequent offenders with an average sentence of 8.14 years and 25 were first-time offenders with an average sentence of 3.46 years.

The Maryland State Commission on Criminal Sentencing Policy advises that its database indicates that 72 individuals were sentenced on 77 counts of the applicable offenses in the State's circuit courts during fiscal 2023.

Increased Incarceration Penalties

The bill increases the maximum incarceration penalties for several specified offenses involving homicide by motor vehicle or vessel, manslaughter by motor vehicle or vessel, or life-threatening injury by motor vehicle or vessel. Maximum incarceration penalties increase across the board for subsequent offenders; penalties increase for first-time offenders for some offenses, but not others.

To the extent that judges impose longer sentences for convictions for the affected offenses, general fund expenditures increase due to people being committed to State correctional facilities for longer periods of time.

Parole Eligibility

General fund incarceration expenditures also increase as incarcerated individuals serve longer sentences due to the classification of additional offenses as violent crimes that alter their eligibility for parole. DPSCS has previously advised that incarcerated individuals serving sentences for violent crimes typically serve 70% of their sentences before release.

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. Excluding overhead, the average cost of housing a new State incarcerated individual (including health care costs) is about \$1,244 per month. Excluding all health care (which is a fixed cost under the current contract), the average variable costs total \$336 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 incarcerated individuals who are sentenced to and awaiting transfer to the State correctional system. A \$45 per diem grant is provided to each county for each day between 12 and 18 months that a sentenced incarcerated individual is confined in a local detention center. Counties also receive an additional \$45 per day grant for 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.

Additional Information

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

Designated Cross File: HB 683 (Delegates Munoz and Miller) - Judiciary.

Information Source(s): Maryland State Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Office of the Public Defender; Department of Natural Resources; Department of Public Safety and Correctional Services; Department of State Police; Maryland Department of Transportation; Department of Legislative Services

Fiscal Note History: First Reader - February 1, 2024
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