

Department of Legislative Services
Maryland General Assembly

FISCAL NOTE
Revised

Senate Bill 101 (Senator Middlebrooks, *et al.*)

Judicial Proceedings

**Criminal Procedure - Bombs - Suspension of Driving Privileges and Restitution -
Juvenile Court Jurisdiction**

This emergency bill provides for the suspension of driver's licenses and court ordered restitution for violators of destructive device laws and establishes court jurisdiction pertaining to juvenile offenders of destructive device laws.

Fiscal Summary

State Effect: Indeterminate decrease in Department of Juvenile Justice (DJJ) expenditures and federal fund revenues. Indeterminate increase in Division of Correction (DOC) and Division of Parole and Probation (DPP) expenditures. Potential minimal increase in Transportation Trust Fund (TTF) expenditures for administrative hearings and computer reprogramming.

Local Effect: Potential increase in revenues and expenditures.

Small Business Effect: None.

Fiscal Analysis

Bill Summary: This bill allows the circuit courts to order the Motor Vehicle Administration (MVA) to suspend the driver's license of an individual convicted of: (1) using a destructive device; (2) manufacturing an object to represent a destructive device; or (3) making threats regarding a destructive device. This suspension may not exceed two years.

The MVA must send written notice of the suspension to any individual convicted of destructive device violations and must include a notice of a right to contest a suspension. The individual may contest a suspension on the grounds that the MVA has mistaken the

identity of the individual or to request a work restricted license. The MVA may issue a work restricted license or a work restricted privilege to drive.

The bill eliminates the juvenile court's jurisdiction over children at least 16 years old alleged to have committed destructive device violations. If a child, regardless of age, is not licensed to drive and is convicted of destructive device violations, the circuit or juvenile court must order the MVA not to issue a driver's license for two years or until the child reaches 18, whichever is longer. If a child has a driver's license and is convicted of such violations, the circuit court must order the MVA to suspend the driving privilege of the child for two years or until the child reaches 18, whichever is longer.

Additionally, the bill provides that the circuit or juvenile courts must order the individual to make restitution to the State, county, local board of education, municipal corporation, bicounty agency, or special taxing district for actual costs that are reasonably incurred in response to a possible destructive device. The bill includes salaries and wages as costs that are eligible for restitution. Under existing law, the court may order restitution, but is not required to do so. Also under existing law, local boards of education are not eligible for restitution.

State Expenditures: While DJJ expenditures could decrease, expenditures for other State agencies could increase as a result of the bill.

In fiscal 1997, five juveniles age 16 or older were adjudicated delinquent for possessing or representing a bomb or making bomb threats (out of 19 charged). Of these, two were given probation and three were committed to residential placement. The charges against six juveniles were resolved informally. The average annual cost of a probation case or informal supervision is \$3,125. The average annual cost of a committed residential placement is \$47,470. Depending upon the number of 16 and 17 year olds that would be convicted of destructive device violations, DJJ could experience a decrease in general fund expenditures.

There would also be a decrease in federal fund revenue because the federal government reimburses DJJ for 50% of the costs of 8% of the residential commitment cases.

The DOC could experience additional incarcerations due to the jurisdictional change, depending upon the conviction rate and sentences imposed. Due to the nature of the violations, it is likely that sentences imposed for destructive device violations in the adult criminal court will be longer than sentences in the juvenile court. However, the net effect on State finances would depend upon actual sentences imposed and cannot be reliably quantified at this time.

Persons serving a sentence longer than one year are incarcerated in a DOC facility. In fiscal 1999, the average monthly cost per inmate is estimated at \$1,500, \$18,000 annually. Persons serving sentences of one year or less are sentenced to a local detention facility. The State reimburses counties for part of their per diem rate after a person has served 90 days. State per diem reimbursements for fiscal 1999 are estimated to range from \$12 to \$42 per inmate depending upon the jurisdiction. Persons sentenced to such a term in Baltimore City are generally incarcerated in a DOC facility, with an average monthly cost estimated at \$1,500 for fiscal 1999. The Baltimore City Detention Center (BCDC), a State operated facility, is used primarily for pretrial detentions. The per diem cost for BCDC in fiscal 1999 is estimated at \$43 per inmate.

Any additional probation cases gained by the DPP as a result of this bill could increase DPP expenditures over time due to the need to develop special programs for youthful offenders. DPP's average annual cost for a probation case ranges from approximately \$773 for a diversified caseload to \$2,052 for a specialized caseload.

The circuit courts must notify the MVA of an order to suspend a driver's license due to destructive device violations. The Judiciary currently performs this function for other violations and could accomplish the additional notification within existing resources.

It costs the MVA approximately \$52 in reimbursable funds for each MVA hearing conducted by the Office of Administrative Hearings. The number of hearings that may be administered to contest license suspensions is uncertain. To the extent that an individual with a suspended license requests a hearing, TTF expenditures could increase.

The MVA advises that computer programming expenditures could increase by an estimated \$10,000 to modify the computer programs as proposed in this legislation. The Department of Legislative Services (DLS) advises that if other legislation is passed requiring computer reprogramming changes, economies of scale could be realized. This would reduce computer programming costs associated with this bill and other legislation affecting the MVA system. Further, DLS advises that the increased computer expenditure is simply an estimate and the MVA may be able to handle the changes with either less money than it estimates or existing resources.

State Revenues: This bill requires that the circuit or juvenile courts order restitution be paid to government agencies for costs incurred in response to a bomb incident. The State Fire Marshal investigated 49 incidents involving bombs in calendar year 1997. It costs the Fire Marshal's office an average of \$500 to investigate each incident. To the extent that suspects are identified, prosecuted, and found guilty, general fund revenues could increase for repayment of costs incurred by State agencies.

Local Expenditures: Expenditures could increase depending upon the number of individuals convicted and sentenced to local detention facilities. Counties pay the full cost of incarceration for people in their facilities for the first 90 days of the sentence, plus part of the per diem cost after 90 days. Per diem operating costs of local detention facilities are expected to range from \$23 to \$83 per inmate in fiscal 1999.

Local Revenues: Revenues could increase to the extent that restitution is paid for actual costs incurred in response to bomb incidents. According to Anne Arundel County Public Schools, to date schools have been evacuated 76 times in this school year: 40 times in high schools; 20 times in middle schools; and 16 times in elementary schools. Anne Arundel County Police have made 30 arrests. The average cost per hour in lost staff time for these evacuations are: \$4,743 for high schools; \$2,426 for middle schools; and \$1,051 for elementary schools.

For illustrative purposes, it is assumed that each evacuation lasts three hours. If 50% of those arrested are found guilty of a destructive device violation in the high schools and must pay restitution, the Anne Arundel County Board of Education would be entitled to \$213,435. However, the amount of court ordered restitution actually collected depends, in part, on an offender's ability and willingness to make payments.

Information Source(s): Department of Transportation (Motor Vehicle Administration), Judiciary (Administrative Office of the Courts), Department of Juvenile Justice, Maryland Association of Boards of Education, Anne Arundel County Police

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