

Department of Legislative Services
Maryland General Assembly
2000 Session

FISCAL NOTE

House Bill 1140 (Delegate Finifter)

Judiciary

Crimes - Drug Free School Zones - Drug Paraphernalia

This bill extends the current law drug free school zone provision applicable within 1,000 feet of school property so as to include the use, delivery, sale, possession, or manufacture of drug paraphernalia (with specified reference to intent). The bill includes under the same prohibition the conspiracy to perform any of these actions within the same zone.

Violators are guilty of a felony and, for a first offense, are subject to maximum penalties of a fine of \$20,000 and/or imprisonment for 20 years. Subsequent offenders are subject to a mandatory minimum sentence of five years, which may not be suspended and during which parole is prohibited, and maximum penalties of a fine of \$40,000 and/or imprisonment for 40 years.

Fiscal Summary

State Effect: Potential minimal increase in general fund expenditures due to the bill's penalty provisions. Revenues would not be affected.

Local Effect: Potential minimal increase in revenues due to the bill's penalty provisions. Expenditures would not be affected.

Small Business Effect: None.

Analysis

Current Law: Drug free school zones prohibit a person from manufacturing, distributing, dispensing, or possessing with the intent to distribute a controlled dangerous substance or from conspiring to commit any of these offenses. Violators are guilty of a felony and, for a first offense, are subject to maximum penalties of a fine of \$20,000 and/or imprisonment for 20 years. Subsequent offenders are subject to a mandatory minimum sentence of five years, which may not be suspended and during which parole is prohibited, and maximum penalties of a fine of \$40,000 and/or imprisonment for 40 years.

Drug paraphernalia is defined (under Article 27, Section 287A) by its use, intended use, and design. The definition also includes 12 categories of objects considered to meet the definition. In addition, there are 13 delineated factors that should be considered by a court or other authority in determining whether an object is drug paraphernalia.

Background: There were 20 intakes by the Division of Correction (DOC), and 496 for the Division of Parole and Probation, for convictions of possession of narcotics paraphernalia. The currently available data does not disclose where the offense occurred. Likewise, DOC data does not track intakes for violation of provisions relating to drug free school zones.

However, for purposes of context only, it should be noted that those convicted of drug crimes in general represent a significant percentage of DOC's annual intake. For instance, in fiscal 1999, there were 4,741 intakes for drug-related offenses where that offense was the most serious imprisonment offense. That number represented 29% of DOC's total fiscal 1999 intake of 16,244.

State Expenditures: General fund expenditures could increase minimally as a result of the bill's expanded prohibitions relating to drug free school zones due to more people being committed to DOC facilities. While the maximum penalties for this proposed crime are severe, the number of people convicted of this crime is expected to be small.

In any event, persons serving a sentence longer than one year are incarcerated in DOC facilities. Currently, the average total cost per inmate, including overhead, is estimated at \$1,700 per month. This bill alone, however, should not create the need for additional beds, personnel, or facilities. The average variable cost of housing a new DOC inmate (food, medical care, etc.), excluding overhead, is \$260 per month.

Local Revenues: Revenues could increase minimally as a result of the bill's monetary penalty provisions since these cases would be heard in the circuit courts.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Public Safety and Correctional Services (Division of Correction), Department of Legislative Services

Fiscal Note History: First Reader - March 8, 2000

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