

Department of Legislative Services
Maryland General Assembly
2000 Session

FISCAL NOTE

House Bill 181 (Chairman, Judiciary Committee)
(Departmental - Health and Mental Hygiene)

Judiciary

Crimes - Controlled Dangerous Substances - Schedules

This departmental bill adds dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule, and ketamine, its salts, isomers, and salts of isomers, to the list of Schedule III controlled dangerous substances.

Fiscal Summary

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

Local Effect: Potential minimal increase in revenues due to applicable penalty provisions. Expenditures would not be affected.

Small Business Effect: The Department of Health and Mental Hygiene (DHMH) has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment.

Analysis

Current Law: Ketamine and synthetic dronabinol are not currently on any of Maryland's schedules of controlled dangerous substances. Pure dronabinol is a State and federal Schedule I drug. Under State law, any new substance designated as controlled under federal law must be similarly controlled unless DHMH objects.

Violators of provisions prohibiting a person to manufacture, distribute, dispense, or possess

Schedule III substances (or to conspire to do so) are guilty of a felony and subject to maximum penalties that range from a fine of \$15,000 and imprisonment for five years, up to imprisonment for a minimum of 40 years without the possibility of a suspended sentence or parole. The severity of the penalty depends, in part, on whether the person is a repeat offender and the number of repeat offenses. These penalties are comparatively less than similar offenses involving substances from Schedules I or II, but greater than those for substances on Schedules IV or V.

Background: Ketamine is used as a “party drug” primarily by teenagers and young adults. In 1999 it was added to Schedule III of the federal Controlled Substances Act. The drug is marketed in the U.S. as a general anesthetic for use in human medicine and also as a veterinary drug. It is known on the street as “Special K” or simply “K.”

Synthetic dronabinol is the U.S. adopted name for tetrahydrocannabinol, which is believed to be a major psychoactive component of marijuana. It is used for the treatment of nausea and vomiting associated with cancer chemotherapy and is currently marketed as Marinol, a federal Food and Drug Administration (FDA) approved product. In 1992, the FDA expanded the allowable use of Marinol to include the treatment of anorexia associated with weight loss by AIDS patients. To avoid confusion with pure dronabinol, a State and federal Schedule I drug, DHMH believes that synthetic dronabinol needs to be specifically added to the State’s Schedule III. The FDA made a similar change to federal Schedule III in 1999.

State Expenditures: General fund expenditures could increase minimally as a result of applicable incarceration penalties due to more people being committed to Division of Correction (DOC) facilities. The number of people convicted of crimes involving the newly added Schedule III substances is expected to be minimal.

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.

Persons serving a sentence of one year or less in a jurisdiction other than Baltimore City are sentenced to local detention facilities. The State reimburses counties for part of their incarceration costs, on a per diem basis, after a person has served 90 days. State per diem reimbursements for fiscal 2001 are estimated to range from \$11 to \$54 per inmate depending upon the jurisdiction. Persons sentenced to such a term in Baltimore City are generally incarcerated in DOC facilities. The Baltimore City Detention Center, a State operated facility, is used primarily for pretrial detentions.

Local Revenues: Since violations of provisions applicable to Schedule III controlled dangerous substances are felonies, these cases would be heard in the circuit courts. Accordingly, local revenues could increase minimally as a result of applicable monetary penalty provisions.

Additional Information

Prior Introductions: Alterations and additions to the State's schedules of controlled dangerous substances are made from time to time. In 1997, HB 304 was introduced to move flunitrazepam from a Schedule IV controlled dangerous substance to a Schedule I controlled dangerous substance. This bill received an unfavorable report in the House Judiciary Committee.

Cross File: None.

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

Fiscal Note History: First Reader - February 8, 2000
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