

Department of Legislative Services
Maryland General Assembly
2000 Session

FISCAL NOTE

Senate Bill 258 (Senator Moonev)
Judicial Proceedings

**Criminal Procedure - Destructive Device Offenses - Suspension of Driver's License
and Restitution**

This bill provides for the suspension of driver's licenses and a 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: Minimal decrease in Department of Juvenile Justice (DJJ) expenditures and federal fund revenues and a minimal increase in Division of Correction (DOC) and Division of Parole and Probation (DPP) expenditures as cases are transferred from the juvenile court jurisdiction. The Judiciary and the Motor Vehicle Administration (MVA) could handle the bill's requirements with existing resources.

Local Effect: Potential minimal increase in revenues and expenditures.

Small Business Effect: None.

Analysis

Bill Summary: This bill increases the maximum suspension that the circuit courts are allowed to order the MVA to impose on 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 or until the person is 18 years old, whichever is longer.

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.

Current Law: The court is authorized to order the MVA to suspend the driver's license of juveniles that use, represent, or make threats about a destructive device. The suspension period may not exceed six months for the first offense, and one year for a second or subsequent offense (or until the driver is 21, whichever is longer).

Currently, the juvenile court has jurisdiction over children under 18 alleged to have committed destructive device violations.

A court has the authority to order the child to make restitution to the State, county, municipal corporation, bicounty agency, or special taxing district for actual costs reasonably incurred due to the placement, delivery, or detonation of a destructive device, including the search for, removal of, and damages caused by a destructive device.

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

In fiscal 1999, 16 juveniles age 16 or older were adjudicated delinquent for possessing or representing a bomb or making bomb threats (out of 39 charged). Of these, 12 were given probation and four were committed to residential placement. The charges against three juveniles were resolved informally. The average annual cost of a probation case or informal supervision is \$3,315. The average annual cost of a committed residential placement is \$49,275. 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 2001, the average monthly cost per inmate is estimated at \$1,700. 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 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 a DOC facility, with an average monthly cost estimated at \$1,700 for fiscal 2001. The Baltimore City Detention Center, a State operated facility, is used primarily for pretrial detentions.

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. Based on historical data, DPP's average annual cost for a probation case ranges from approximately \$800 for a diversified caseload to \$2,100 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. Further, because there will be a limited number of cases, the MVA could handle any additional suspensions with 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 40 incidents involving bombs in calendar 1999. 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 \$22 to \$83 per inmate in fiscal 2001.

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, during the 1998-1999 school year, schools were evacuated 28 times. 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 evacuations resulted in convictions of destructive device violations in the high schools and those convicted must pay restitution, the Anne Arundel County Board of Education would be entitled to \$199,206. However, the amount of court-ordered restitution actually collected depends, in part, on an offender's ability and willingness to make payments.

Additional Information

Prior Introductions: A similar bill was introduced in the 1998 session as SB 100 and was withdrawn.

Cross File: None.

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 Board of Education, Department of Legislative Services

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