

**Department of Legislative Services**  
Maryland General Assembly  
2001 Session

**FISCAL NOTE**

House Bill 1207      (Delegate Amedori)  
Judiciary

---

**Criminal Law - Heroin - Unlawful Distribution**

---

This bill prohibits persons over the age of 18 years from willfully and knowingly: (1) distributing to persons under the age of 18 any material, compound, mixture, preparation, or substance that contains any detectable amount of heroin; or (2) entering into a common scheme or design to distribute detectable amounts of heroin to persons under the age of 18. Violators are subject to the following maximum penalties: (1) for a first offense, nonsuspendable mandatory imprisonment for five years; and (2) for subsequent offenses, nonsuspendable, nonparolable mandatory imprisonment for 20 years. A person convicted under these provisions is not eligible for probation before judgment.

---

**Fiscal Summary**

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

**Local Effect:** Minimal increase in revenues and expenditures due to the bill's penalty provisions.

**Small Business Effect:** None.

---

**Analysis**

**Current Law:** Heroin is a narcotic drug, and has been a Schedule I controlled dangerous substance under both State and federal drug prohibitions since 1970. Schedule I drugs are considered to have the highest potential for abuse and offenses involving these drugs are generally treated as more serious than those involving substances on the other four

schedules. Statewide, violators of manufacture or distribution prohibitions applicable to Schedule I or II substances that are narcotics are subject to maximum penalties of a fine of \$25,000 and/or incarceration for 20 years. For subsequent violations, the term of imprisonment for a person lengthens according to the number of times the person has been previously convicted. A repeat offender is subject to: (1) not less than ten years imprisonment, if previously convicted once; (2) not less than 25 years imprisonment, if previously convicted twice; and (3) not less than 40 years imprisonment, if previously convicted three times.

A person convicted of distributing 28 grams or more of opium or an opium derivative, which includes heroin, in a 90-day time period is subject to a mandatory minimum nonparolable five-year term of confinement plus a fine of up to \$100,000. A drug kingpin convicted of conspiracy involving 28 grams or more of opium or an opium derivative is subject to imprisonment for at least 20 years and up to 40 years plus a fine of up to \$1,000,000.

None of these offenses is tied to the ages of the persons involved in the transaction or enterprise.

**State Expenditures:** General fund expenditures could increase minimally as a result of the bill's incarceration penalty due to more people being committed to Division of Correction (DOC) facilities and increased payments to counties for reimbursement of inmate costs. The number of people convicted of this proposed crime 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. Excluding overhead, the average cost of housing a new DOC inmate (including medical care and variable costs) is \$288 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 2002 are estimated to range from \$9 to \$52 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 (BCDC), a State-operated facility, is used primarily for pretrial detentions.

**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.

**Local Expenditures:** Expenditures could increase minimally as a result of the bill's incarceration penalties. 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 \$17 to \$77 per inmate in fiscal 2002.

---

### **Additional Information**

**Prior Introductions:** A similar bill, HB 602, applicable to Carroll County only, was introduced during the 2000 session, and it received an unfavorable report from the House Judiciary Committee.

**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 – February 20, 2001  
ncs/cer

---

Analysis by: Guy G. Cherry

Direct Inquiries to:  
John Rixey, Coordinating Analyst  
(410) 946-5510  
(301) 970-5510