

Department of Legislative Services
Maryland General Assembly
2001 Session

FISCAL NOTE

House Bill 338 (Delegate Giannetti, *et al.*)
Judiciary

Judicial Proceedings

**Drunk and Drugged Driving - Evidence - Refusal to Submit to Test for Alcohol,
Drugs, or Controlled Dangerous Substances**

This bill repeals a prohibition against an inference or presumption of guilt or innocence of driving while intoxicated or driving under the influence of alcohol or drugs arising because of a person's refusal to submit to a chemical test administered to determine alcohol concentration or drug or controlled dangerous substance content of a person's blood.

Fiscal Summary

State Effect: General fund revenues and expenditures would increase to the extent that more people are convicted of drunk or drugged driving-related offenses.

Local Effect: Revenues and expenditures would increase to the extent that more people are convicted of drunk or drugged driving-related offenses.

Small Business Effect: None.

Analysis

Current Law: A person may not be compelled to submit to a chemical test that determines alcohol concentration or drug or controlled dangerous substance content of that person's blood. No inference or presumption concerning guilt or innocence arises because of a refusal to submit.

State Revenues: The District Court reports that in fiscal 2000, there were 9,205 convictions of drunk or drugged driving out of 38,463 charges, and 8,804 people refused to submit to a blood alcohol content (BAC) test. Repealing the prohibition against an inference of guilt or innocence in a case involving a refusal to submit to a chemical test will allow the fact that the person refused the test to be considered as evidence. Repealing a prohibition against a presumption of guilt or innocence allows the court to presume guilt based on the fact that the individual refused to take the test, unless the individual can rebut the presumption. It is expected that the bill's provisions would result in an increase in the number of convictions. The magnitude of any such increase cannot be reliably determined at this time. General fund revenues could increase from cases heard in the District Court.

State Expenditures: It is expected that the bill could increase the number of people convicted of drunk and drugged driving offenses. General fund expenditures could increase due to more people being committed to Division of Correction (DOC) facilities and increased payments to counties for reimbursement of inmate costs.

Persons serving a sentence of one year or less in a jurisdiction other than Baltimore City are sentenced to a local detention facility. 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 a DOC facility. Currently, the DOC 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 (food, medical care, and variable costs) is \$288 per month.

Local Revenues: Revenues could increase minimally from cases heard in the circuit courts.

Local Expenditures: Expenditures could increase minimally due to more people being convicted of drunk and drugged driving offenses. 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: This bill was introduced as HB 994 in 2000. It passed the House but received an unfavorable report from the Senate Judicial Proceedings Committee.

Cross File: SB 4 (Senators Forehand and Frosh) – Judicial Proceedings.

Information Source(s): Department of Transportation (Motor Vehicle Administration), Department of Legislative Services

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ncs/jr

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