

Department of Legislative Services
Maryland General Assembly
2002 Session

FISCAL NOTE

House Bill 610 (Delegate Marriott, *et al.*)
Judiciary

Crack Cocaine Uniform Sentencing Act

This bill repeals the current law provision that subjects persons who manufacture or distribute 50 grams or more of crack cocaine to enhanced penalties of a maximum fine of \$100,000 and a mandatory minimum sentence of five years, which cannot be suspended, and provides that these penalties will apply to offenses involving 448 grams or more of crack cocaine.

Fiscal Summary

State Effect: Potential minimal decrease in general fund incarceration expenditures. Revenues would not be affected.

Local Effect: Potential minimal decrease in circuit court fine revenues. Expenditures would not be affected.

Small Business Effect: None.

Analysis

Current Law: Cocaine is a Schedule II controlled dangerous substance. Offenses relating to the manufacture or distribution of drugs on this schedule subject violators to maximum penalties of a fine of \$25,000 and/or imprisonment for 20 years. In addition to various additional penalties for subsequent offenses, violations involving at least 50 grams of “crack” subject offenders to enhanced penalties of a \$100,000 fine and a mandatory minimum sentence of five years, which cannot be suspended. Such a violation also eliminates the possibility of parole, unless the person has been sentenced to the Patuxent Institution. If the cocaine involved is in any other form, the mandatory

minimum sentence provision is not triggered unless the amount of cocaine weighs at least 448 grams.

These amounts also trigger the State's "drug kingpin" provisions. Under these provisions, a drug kingpin who conspires to manufacture, distribute, dispense, transport in, or bring into the State a controlled dangerous substance in a qualifying amount is guilty of a felony and subject to penalties of a mandatory minimum imprisonment sentence of 20 years, which is nonsuspendable and nonparolable, and for not more than 40 years and/or a fine not exceeding \$1 million.

Background: The federal government and most state governments have provided for more severe penalties for persons convicted of crack cocaine offenses than for those involving powdered cocaine. Issues relating to this difference in penalties have arisen over the last several years, especially in terms of whether such penalty statutes tend to be discriminatory toward minorities. Data on the number of persons sentenced under Maryland's enhanced penalty provision for crack cocaine offenses are not currently available.

In January 2002, a bill known as the Sessions-Hatch bill was introduced in Congress to address the apparent disparity between federal sentencing provisions for powder cocaine and crack cocaine. The bill would still leave a disparity in how much of each drug draws a five-year sentence, though it would narrow the ratio from 100-1 to 20-to-1. If a case is prosecuted at the federal level under the current law, someone caught with five grams of crack gets a mandatory five-year sentence, while someone would have to be in possession of 500 grams of powdered cocaine to trigger the mandatory prison time. Sessions-Hatch would raise the crack trigger amount to 20 grams, and lower the powder amount to 400 grams.

State Expenditures: General fund expenditures could decrease minimally as a result of the bill's raising of the threshold for certain mandatory minimum sentencing provisions due to some people being committed to Division of Correction (DOC) facilities for shorter periods of time. The number of convicted persons this may affect, or the effect on their actual sentences served, is unknown.

Persons serving a sentence longer than one year are incarcerated in DOC facilities. The average variable cost of housing a new DOC inmate (food, medical care, etc.), excluding overhead, is \$300 per month. Accordingly, this bill could allow for a cost savings of approximately \$3,600 per year per inmate, but only to the extent that fewer mandatory minimum sentences imposed would result in less time served by any given inmate convicted of these drug-related offenses.

Additional Information

Prior Introductions: Similar bills were introduced during the 2000 and 2001 sessions. HB 539 of 2001 and HB 386 of 2000 each 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), Office of State's Attorneys' Coordinator, Department of Legislative Services

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