

Department of Legislative Services
Maryland General Assembly
2002 Session

FISCAL NOTE
Revised

Senate Bill 117

(Chairman, Judicial Proceedings Committee)

(Departmental – Public Safety and Correctional Services)

Judicial Proceedings

Judiciary

Crimes - Controlled Dangerous Substances in Correctional Facilities – Penalty

This departmental bill, under provisions relating to the existing offense of delivery of a controlled dangerous substance to a person detained or confined in a place of confinement, provides that a sentence for a violation may be imposed separate from and consecutive or concurrent with the general controlled dangerous substance trafficking offense.

Fiscal Summary

State Effect: Potential minimal increase in general fund expenditures due to the bill's changes to sentencing options for the Judiciary.

Local Effect: None.

Small Business Effect: The Department of Public Safety and Correctional Services has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment. (The attached assessment does not reflect amendments to the bill.)

Analysis

Current Law: A person may not deliver, or possess with the intent to deliver, a controlled dangerous substance to a person detained or confined in a place of confinement. A person violating this prohibition is guilty of a misdemeanor and subject to maximum penalties of a fine of \$1,000 and/or imprisonment for three years.

Maryland's criminal code prohibits the manufacture, distribution, intent to distribute, production, or possession of controlled dangerous substances. The maximum penalties for these felonies vary according to the drug involved:

- A violation involving a substance classified in Schedule I or II which is a narcotic drug is punishable by imprisonment for up to 20 years and/or a fine of not more than \$25,000;
- A violation involving one of specified Schedule I or II drugs (e.g., PCP, LSD) is subject to imprisonment for not more than 20 years and/or a fine of not more than \$20,000;
- A violation involving any other controlled dangerous substance classified in Schedule I, II, III, IV, or V is punishable by imprisonment for not more than five years and/or a fine of not more than \$15,000. A repeat offender under this provision is subject to a nonsuspendable, nonparolable mandatory minimum sentence of two years.

Background: Under current law, an individual convicted of delivery or possession with intent to deliver a controlled dangerous substance is guilty of a felony. However, if an individual is convicted of the same offenses while detained or confined in a correctional facility, the individual is guilty of a misdemeanor. This bill allows for a prosecution for, and sentencing under, one or both of the offenses of delivery of a controlled dangerous substance to a confined or detained person or general controlled dangerous substance trafficking.

State Expenditures: General fund expenditures could increase minimally as a result of the bill's changes to applicable sentencing options due to people being committed to (Division of Correction) DOC facilities for longer periods of time.

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 \$1,850 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 \$300 per month.

Additional Information

Prior Introductions: In 2001, a similar bill (HB 1323) received an unfavorable report from the Judiciary Committee.

Cross File: None.

Information Source(s): State's Attorneys' Association, Department of Public Safety and Correctional Services (Division of Correction), Department of Legislative Services

Fiscal Note History: First Reader - January 15, 2002
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