

Department of Legislative Services
Maryland General Assembly
2002 Session

FISCAL NOTE

Senate Bill 697

(Senator Colburn)

Judicial Proceedings

Judiciary

Dorchester County - Violations of Ordinances, Resolutions, and Regulations -
County Infractions and Misdemeanors

This bill authorizes the County Commissioners of Dorchester County to punish violations of local ordinances and resolutions as misdemeanors, with fines of up to \$1,000 and imprisonment to six months. The bill also establishes specified violations as county infractions, to be treated as a civil offense. The bill further establishes the procedures for prosecuting and punishing a county infraction. This bill is to be applied prospectively only.

Fiscal Summary

State Effect: None. The bill would not have a significant impact on District Court operations or finances.

Local Effect: Minimal. It is expected that most cases will be processed as county infractions using existing resources. The few cases that are processed as criminal misdemeanors can be handled with existing resources and the system of fines is expected to generate revenues of only about \$10,000 (assuming ten cases with \$1,000 fines).

Small Business Effect: None.

Analysis

Bill Summary: The bill authorizes the County Commissioners of Dorchester County to punish violations of local ordinances and resolutions as misdemeanors, with fines of up to

\$1,000 and imprisonment to six months. The bill establishes that the following violations may be classified as county infractions, to be treated as a civil offense:

- a violation of any county ordinance, unless the violation is declared to be a felony or misdemeanor by State law;
- a violation of any zoning or land use ordinance or regulation; and
- littering.

Each county infraction may be punished with a fine not to exceed \$1,000. The fine is payable to the county by the person charged in the citation within 20 calendar days of service of the citation.

Citation Requirements: An authorized enforcement officer may serve a citation, with or without a summons, on any person the officer believes is committing or has committed a county infraction, or on the basis of an affidavit citing the facts of the alleged infraction. The citation generally must be served on the defendant: (1) in person; (2) by leaving it with a suitable person at the defendant's home; or (3) by certified mail. For real property violations, after proving via affidavit that these efforts at service have failed, service alternatively may be accomplished by: (1) regular mail to the defendant's last known address; or (2) posting the citation at the property where the infraction has occurred or is occurring and, if located within Dorchester County, at the residence or place of business of the defendant. The citation must contain:

- the enforcement officer's certification: (1) attesting to the truth of the facts in the citation; or (2) that the citation is based on an affidavit;
- the name and address of the person charged;
- the nature of the infraction;
- the location and time of the infraction;
- the amount of the fine assessed;
- the method of paying the fine and the person's right to elect to stand trial; and
- the effect of failing to timely pay the fine or demand trial.

The enforcement officer must retain a copy of the citation.

Procedure -- Citation without Summons: If a citation is served without a summons, the person charged in the citation may elect to stand trial for the infraction by notifying the county in writing of the person's intent to stand trial. The written notice must be given at least five days prior to the date of payment set forth in the citation. Upon receipt of the written notice of the intent to stand trial, the county must forward to the District Court a

copy of the citation and the written notice. The District Court must then schedule the case for trial and notify the defendant of the trial date.

If a person charged in a citation fails to either timely pay the fine or deliver timely written notice of intent to stand trial, the person is liable for the assessed fine. The county may double the fine to an amount not to exceed \$1,000 and request adjudication of the case through the District Court, including the filing of a demand for judgment on affidavit. The District Court must schedule the case for trial and summons the defendant to appear. If the defendant fails to respond to the summons and a proper demand for judgment on affidavit has been made, then an entry of judgment against the defendant in favor of the county in the amount then due must be made.

Procedure -- Citation with Summons: An enforcement officer may also serve a summons with the citation that requires the person to appear in District Court on a specified date and time. The summons must specify that the person is not required to appear in District Court if the person timely pays the fine assessed. If the defendant fails to timely pay the fine and fails to appear in District Court pursuant to the summons, the county may double the fine to an amount not to exceed \$1,000, and the court may enter judgment against the defendant in the amount then due if the proper demand for judgment on affidavit has been made.

Court Proceedings: In any proceeding for a county infraction, the county has the burden of proving a violation by clear and convincing evidence. The District Court must ensure that the defendant has received a copy of the charges and understands those charges. The defendant may cross-examine all witnesses who appear against the defendant, may produce evidence or witnesses in the defendant's own behalf, or may testify in the defendant's own behalf, if the defendant elects to do so. The defendant may be represented by counsel at the defendant's own expense. The defendant may enter a plea of guilty or not guilty of the infraction as charged, and the District Court verdict must be one of guilty or not guilty of a county infraction. The District Court may opt, before rendering judgment, to place the defendant on probation. Court costs in a proceeding in which costs are imposed are \$5. A defendant may not be liable for payment to the Criminal Injuries Compensation Fund. The State's Attorney of Dorchester County, or another attorney designated by the county to prosecute county infractions, may enter a nolle prosequi or place the cases on the stet docket.

Finding in Favor of County: If the District Court finds that a person has committed a county infraction:

- the court must order the person to pay the fine, including any doubling of the fine. The fines imposed will constitute a judgment in favor of the county, and if the fine

remains unpaid for 30 days following the date of its entry, the judgment will be enforceable in the same manner and to the same extent as other civil judgments for money unless the court has suspended or deferred the payment of the fine;

- the court may suspend or defer the payment of any fine under conditions that the court sets;
- the person is liable for the costs of the court proceedings; and
- the court may order the person to abate the infraction or enter an order permitting the county to abate the infraction at the person's expense.

If the county abates an infraction in accordance with a court order, the county must present the defendant with a bill for the cost of abatement. If the defendant does not pay the bill within 30 days after presentment, upon a motion of the county, the District Court must enter a judgment against the defendant for the cost of the abatement.

All fines, penalties, or forfeitures collected by the District Court for a county infraction must be remitted to the county. If a defendant fails to pay any fine or cost imposed by the District Court without good cause, the District Court may punish the failure as contempt of court.

Current Law: Dorchester County does not have statutory authority to treat a violation of its local ordinances or regulations as either a misdemeanor or a civil offense; Dorchester County also does not have statutory authority to punish violations of its local ordinances and regulations.

Background: Chartered counties have the statutory authority to enforce local ordinances, resolutions, and regulations: (1) with fines of up to \$1,000 and imprisonment up to six months; or (2) via civil fines and penalties. Chartered counties additionally may enforce local employment discrimination and public accommodations discrimination laws by a fine not to exceed \$5,000 per offense. The chartered counties, as of January 1, 2002, are: Anne Arundel County, Baltimore County, Harford County, Howard County, Montgomery County, Prince George's County, Talbot County, and Wicomico County.

Municipal corporations similarly have the statutory authority to enforce violations of local ordinances by fines of up to \$1,000 (criminal or civil) and imprisonment up to six months.

The language used to create these enforcement provisions for Dorchester County mirrors the language used to define, prosecute, and punish local infractions within municipal corporations.

Additional Information

Prior Introductions: None.

Cross File: HB 599 (Dorchester County Delegation) – Judiciary.

Information Source(s): Dorchester County, Judiciary (District Court of Maryland),
Department of Legislative Services

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