

Department of Legislative Services  
Maryland General Assembly  
2003 Session

FISCAL AND POLICY NOTE

House Bill 26  
Judiciary

(Delegate Hammen, *et al.*)

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Baltimore City - Drug-Free Zones - Recreation Areas

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This bill prohibits specified drug-related activities in or within 1,000 feet of a “recreation area” in Baltimore City.

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**Fiscal Summary**

**State Effect:** Potential significant increase in general fund expenditures due to the bill’s incarceration penalty provisions.

**Local Effect:** Potential increase in revenues for Baltimore City due to the bill’s monetary penalty provisions. It is assumed that the optional posting of drug-free zone signs, and any activities relating to authorizing, drawing, or revising maps, could be handled with Baltimore City’s existing budgeted resources.

**Small Business Effect:** None.

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**Analysis**

**Bill Summary:** This bill prohibits a person from using, possessing, manufacturing, distributing, dispensing, or possessing with intent to distribute a controlled dangerous substance or possessing or distributing controlled paraphernalia, in or within 1,000 feet of a “recreation area.” Conspiring to commit any of these offenses in or within 1,000 feet of a “recreation area” is also prohibited.

Violators are guilty of a felony and subject to the following maximum penalties: (1) for a first offense, a fine of \$20,000 and/or imprisonment for 20 years; and (2) for a subsequent

offense, a fine of \$40,000 and/or imprisonment for 40 years and not less than five years. The mandatory minimum five-year sentence for a subsequent offense is nonsuspendable and nonparolable. Sentences imposed under these provisions are required to be served consecutively to any other sentence imposed, and a conviction under these provisions may not merge with a conviction for other specified drug-related prohibitions.

The bill defines “recreation area” as a property in Baltimore City that is maintained as a forest, park, public parkland, wildland, open area, recreation center, or recreation activity area owned or operated by the State or Baltimore City.

The bill provides for the approval and evidentiary use of maps to define the location and boundaries of recreation areas for prosecutorial purposes. The bill’s provisions do not preclude a prosecution from introducing other evidence to establish an element of a crime.

The bill also allows the State or Baltimore City to post signs designating a recreation area as a “drug-free zone.” Such signs must be designed to provide notice of the provisions of this bill. A failure of the State or Baltimore City to post a sign under these provisions does not exempt a recreation area from the provisions of this bill.

**Current Law:** A person is prohibited from manufacturing, distributing, dispensing, or possessing with intent to distribute a controlled dangerous substance within 1,000 feet of any school, or on a school vehicle. These prohibitions subject violators to the same penalties provided under this bill. A county board of education is authorized to adopt regulations requiring the posting of signs designating the areas within 1,000 feet of schools as “drug-free school zones.” There are no similar provisions specifically applicable to “recreation areas.”

Penalties for drug and drug paraphernalia offenses vary from maximum penalties of incarceration for one year and/or a fine of \$1,000 (for misdemeanor marijuana offenses) up to 40 years and/or \$1 million (for repeat “drug king pin” offenses).

**Background:** Baltimore City has 392 park properties with a total area of approximately 5,700 acres, which include: 215 playgrounds, 170 ball fields, 101 basketball courts, 105 tennis courts, 85 monuments, 36 picnic groves, 45 recreation centers, 1 therapeutic recreation center, 35 comfort stations, 22 wading pools, 19 outdoor swimming pools, 3 indoors swimming pools, 11 historic mansions, 18 pavilions, 2 soccer arenas, 1 arboretum, 1 conservatory, 1 ice rink, 1 skateboard park, 1 rowing facility, 1 nature center, 1 senior center, and 5 maintenance yards.

Baltimore City also owns five golf courses, which are operated by the Baltimore Municipal Golf Corporation, a nonprofit private entity. Those courses encompass approximately 1,010 acres of land.

The State does not own or operate any “recreation areas” in Baltimore City.

**State Expenditures:** While it is unknown where each of the crimes occurred, the Division of Correction (DOC) reports that there were 2,409 statewide intakes for the underlying drug offenses covered under the bill in fiscal 2002. Each of those intakes is expected to serve a term of 50 months. According to the most recent *Uniform Crime Report* (2001), Baltimore City accounts for about 56% of all drug-related arrests in the State. The extent to which the bill’s mandatory consecutive sentencing and its prohibition against merging convictions could increase actual sentences cannot be reliably estimated. In any event, it is possible that general fund expenditures could increase significantly as a result of the bill’s incarceration penalties due to more people being committed to DOC facilities for longer periods of time. The number of people who would be convicted of this proposed crime cannot be reliably estimated, but could be significant – at least, initially.

Generally, persons sentenced for crimes in Baltimore City 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 \$350 per month.

**Local Revenues:** Baltimore City revenues could increase by unknown amounts as a result of the bill’s monetary penalty provisions since these cases would be heard in circuit court.

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### **Additional Information**

**Prior Introductions:** HB 416 of 2001 would have created similar drug-free zones near recreation areas statewide. In 2000, HB 1140 would have created similar drug-free school zones applicable to certain drug paraphernalia. Both of these bills received an unfavorable report from the House Judiciary Committee. In 1999, SB 742 would have created similar drug-free zones near property used for preschool purposes. SB 742 received an unfavorable report from the Senate Judicial Proceedings Committee. HB 1225 of 1998 would have established State forests and parks as “drug-free zones.” After a hearing before the House Judiciary Committee, no further action was taken on that bill.

**Cross File:** SB 20 (Senator Della) – Judicial Proceedings.

**Information Source(s):** Judiciary (Administrative Office of the Courts), Baltimore City, Department of Natural Resources, Department of Public Safety and Correctional Services, Baltimore Municipal Golf Corporation, Department of Legislative Services

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