

Department of Legislative Services
Maryland General Assembly
2003 Session

FISCAL AND POLICY NOTE

Senate Bill 427

(Senator Giannetti)

Judicial Proceedings

Judiciary

Drunk and Drugged Driving - Conditions of Probation

This bill requires a court to impose, as a condition of probation in certain alcohol- and drug-related driving cases, participation in an alcohol or drug treatment or education program approved by the Department of Health and Mental Hygiene (DHMH), unless the court finds and states on the record that the defendant's and the public's interests do not require the condition.

Fiscal Summary

State Effect: General fund expenditures could increase from the drug and alcohol treatment provision if drug and alcohol treatment programs are expanded to specifically serve this population.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: This bill applies to defendants who have been convicted of: (1) driving or attempting to drive while under the influence of alcohol or under the influence of alcohol per se; (2) driving or attempting to drive while impaired by alcohol; (3) driving or attempting to drive while impaired by drugs or drugs and alcohol; (4) driving or attempting to drive while impaired by a controlled dangerous substance; (5) homicide by motor vehicle or vessel while under the influence of alcohol or under the influence of alcohol per se; (6) homicide by motor vehicle or vessel while impaired by alcohol; (7)

homicide by motor vehicle or vessel while impaired by drugs; (8) homicide by motor vehicle or vessel while impaired by a controlled dangerous substance; or (9) life-threatening injury by motor vehicle or vessel while under the influence of alcohol and related crimes. An individual charged with any of the aforementioned crimes must participate in an alcohol or drug treatment or education program approved by DHMH as a condition of probation before or after judgment, unless the court finds and states on the record that the public's and defendant's interests do not require such a condition.

Current Law: For defendants who have been convicted of driving while under the influence of alcohol, driving while under the influence of alcohol per se, or driving while impaired by alcohol, and who have been placed on probation, the court must require the defendant to participate in an alcohol treatment or education program approved by DHMH as a probationary condition. The court is required to impose this condition unless it finds and states on the record that the interests of the public and defendant do not require the condition.

If a conviction is being stayed for: (1) driving or attempting to drive while under the influence of alcohol or under the influence of alcohol per se; (2) driving or attempting to drive while impaired by alcohol; (3) driving or attempting to drive while impaired by drugs or drugs and alcohol; or (4) driving or attempting to drive while impaired by a controlled dangerous substance; then the court must impose probation. As a condition of probation, the defendant must be required to participate in an alcohol treatment or education program approved by DHMH, unless the court finds and states on the record that the defendant's and the public's interests would not be served by the condition.

The bill contains no provisions as to which entity is responsible for funding any treatment that may be ordered. The Alcohol and Drug Abuse Administration within DHMH pays for most in-patient drug and alcohol treatments but driving while under the influence of alcohol and/or driving while impaired education classes are self-pay. Other State agencies that could provide substance abuse treatment to this population include the Department of Juvenile Justice, the Division of Correction, and the Division of Parole and Probation. The bill is also silent on how the courts may view any drug or alcohol treatment a violator may voluntarily complete before trial. It is a common practice for a person to complete such treatment before trial. If these treatments meet the recommendations of DHMH, then that would also affect any potential State expenditures. For fiscal 2004, the budget allowance for the Alcohol and Drug Abuse Administration in DHMH is \$135.5 million, most of which is used to pay alcohol and drug treatment providers.

Additional Information

Prior Introductions: This bill is a reintroduction of HB 523 from the 2002 session. HB 523 was passed by the House and referred to the Judicial Proceedings Committee, where it was not reported out.

Cross File: HB 347 (Delegate Dumais, *et al.*) – Judiciary.

Information Source(s): Judiciary (Administrative Office of the Courts), Department of Health and Mental Hygiene, Department of Transportation, Department of Legislative Services

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Analysis by: Karen D. Morgan

Direct Inquiries to:
(410) 946-5510
(301) 970-5510