

Department of Legislative Services  
Maryland General Assembly  
2004 Session

FISCAL AND POLICY NOTE

Senate Bill 293 (Senator Stone)  
Judicial Proceedings

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Homicide by Motor Vehicle or Vessel While Fatigued

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This bill establishes the offense of homicide by motor vehicle or vessel while fatigued.

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Fiscal Summary

**State Effect:** Potential minimal increase in general fund revenues and expenditures due to the bill's penalty provisions. Potential minimal increase in special fund expenditures for computer reprogramming at the Motor Vehicle Administration (MVA).

**Local Effect:** Potential minimal increase in revenues and expenditures due to the bill's penalty provisions.

**Small Business Effect:** None.

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Analysis

**Bill Summary:** This bill provides that a person may not cause the death of another as a result of driving, operating, or controlling a motor vehicle or vessel while knowingly fatigued. A person may not cause the death of another as a result of falling asleep while driving, operating, or controlling a motor vehicle or vessel.

In a prosecution of these provisions, proof that the defendant was driving without sleep for a period in excess of 24 consecutive hours before driving the motor vehicle may give rise to an inference that the defendant was fatigued. The bill provides that a charging document for homicide by motor vehicle or vessel while fatigued need not set forth the manner of death and specifies the information necessary to ensure the sufficiency of an indictment or other charging document.

A person who commits homicide by motor vehicle or vessel while fatigued is guilty of a felony and is subject to imprisonment not exceeding five years or a fine not exceeding \$5,000, or both. A conviction for this offense requires the MVA to assess 12 points against the driver's license.

**Current Law:** State law does not contain a separate offense for fatigued driving. However, a person is prohibited from committing manslaughter by motor vehicle or vessel by causing the death of another as a result of driving, operating, or controlling a motor vehicle or vessel in a grossly negligent manner. A person who violates this provision is guilty of a felony and is subject to imprisonment for up to 10 years or a fine not exceeding \$5,000, or both. Any felony involving the use of a vehicle requires the MVA to assess 12 points against the driver's license.

A person is guilty of reckless driving if a motor vehicle is driven in wanton or willful disregard for the safety of persons or property or in a manner that indicates a wanton or willful disregard for the safety of persons or property. A violation is a misdemeanor, subject to a fine not exceeding \$1,000. The MVA is also required to assess six points against the driver's license. A person is guilty of negligent driving if a motor vehicle is driven in a careless or imprudent manner that endangers any property or the life or safety of any individual. This violation is a misdemeanor, subject to a maximum fine of \$500. The MVA must assess one point against the driver's license.

The MVA must revoke the license of a person who has accumulated 12 points.

**State Revenues:** General fund revenues could increase minimally as a result of the bill's monetary penalty provision from cases heard in the District Court.

**State Expenditures:** The MVA advises that computer programming modifications would be required to accept conviction records from the judicial system as required by the bill. The programming changes could result in a one-time expenditure of \$30,000 in special funds. However, the Department of Legislative Services (DLS) advises that if other legislation is passed requiring computer programming changes, economies of scale could be realized. This would reduce computer programming costs associated with this bill and other legislation affecting the MVA system. Further, DLS advises that the increased computer expenditure is an estimate, and that the MVA may be able to handle the changes within existing resources.

General fund expenditures could increase minimally as a result of the bill's incarceration penalty due to more people being committed to Division of Correction (DOC) facilities and increased payments to counties for reimbursement of inmate costs. The number of people convicted of this proposed crime is expected to be minimal.

Persons serving a sentence longer than 18 months 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. Excluding medical care, the average variable costs total \$120 per month.

Persons serving a sentence of one year or less in a jurisdiction other than Baltimore City are sentenced to local detention facilities. For persons sentenced to a term of between 12 and 18 months, the sentencing judge has the discretion to order that the sentence be served at a local facility or DOC. The State reimburses counties for part of their incarceration costs, on a per diem basis, after a person has served 90 days. State per diem reimbursements for fiscal 2005 are estimated to range from \$14 to \$58 per inmate depending upon the jurisdiction. Persons sentenced to such a term in Baltimore City are generally incarcerated in DOC facilities. The Baltimore City Detention Center, a State-operated facility, is used primarily for pretrial detentions.

**Local Revenues:** Revenues could increase minimally as a result of the bill's monetary penalty provision from cases heard in the circuit courts.

**Local Expenditures:** Expenditures could increase minimally as a result of the bill's incarceration penalty. Counties pay the full cost of incarceration for people in their facilities for the first 90 days of the sentence, plus part of the per diem cost after 90 days. Per diem operating costs of local detention facilities are expected to range from \$29 to \$97 per inmate in fiscal 2005.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Maryland Department of Transportation, Department of Public Safety and Correctional Services, Department of Legislative Services

**Fiscal Note History:** First Reader - February 17, 2004  
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