

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE

House Bill 940
Judiciary

(Delegate McComas, *et al.*)

Alcohol- or Drug-Related Driving Offenses - Accident Resulting in Death or Life
Threatening Injury - Test Refusal

This bill prohibits a person from refusing to take a test of blood and/or breath if the person is involved in a motor vehicle accident that results in the death or life-threatening injury to another person. If a police officer detains the person because the officer has reasonable grounds to believe the person has committed an alcohol- and/or drug-related driving offense, the person is required to submit to the test or tests, as directed by the officer. A person who is convicted of refusing to take a test of blood and/or breath as directed is subject to a fine of up to \$5,000 and/or imprisonment up to five years.

Fiscal Summary

State Effect: Potential minimal increase in general fund revenues and expenditures due to the bill's penalty provisions. The Judiciary could handle any additional or longer trials that may result from this bill within existing resources.

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

Small Business Effect: None.

Analysis

Current Law: A person must submit to a test of blood or breath, or both, as directed by a police officer, if the person is in a motor vehicle accident that results in death or life-

threatening injury to another person and the police officer detains the person due to a reasonable belief that the person was driving or attempting to drive while:

- under the influence of alcohol or under the influence of alcohol per se;
- impaired by alcohol;
- impaired by drugs or drugs and alcohol; or
- impaired by a controlled dangerous substance;

If a police officer directs that a person be tested, then the test must be administered by qualified personnel who comply with the testing procedures specified in statute. Medical personnel who perform the required tests are not liable for civil damages from administering the tests, unless gross negligence is proved.

A person who is stopped by a police officer with reasonable grounds to believe that a violation of alcohol- and/or drug-related driving provisions has taken place must detain the person and request that the person permit a test to be taken. Refusal to take a test is an “administrative per se” offense. An offender’s license or driving privilege must be suspended by the MVA for 120 days for a first offense and one year for a second or subsequent offense.

Currently, if a person takes a breath or blood test that indicates an alcohol concentration of 0.08 or more at the time of testing, the MVA must suspend the driver’s license or privilege for 45 days for a first offense, and 90 days for a second or subsequent offense. If a person refuses to take a test, the MVA must suspend the driver’s license or privilege for 120 days for a first offense and one year for subsequent offenses.

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 bill’s provisions may have a significant deterrent effect on test refusals, thereby decreasing the number of people who refuse to take a test. The Judiciary advises that there were 66,835 citations issued to 22,278 people in fiscal 2004. The new offense could consume more judicial and clerical time, however, it is expected that the Judiciary could meet the bill’s requirements with 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 for longer periods of time 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 \$310 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 2006 are estimated to range from \$17 to \$65 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 \$33 to \$119 per inmate in fiscal 2006.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts), Maryland Department of Transportation, Department of Public Safety and Correctional Services, Department of Legislative Services

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ncs/jr

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