

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE

Senate Bill 270

(Senator Forehand)

Judicial Proceedings

Criminal Law - Manslaughter by Vehicle or Vessel - Criminal Negligence

This bill makes it a crime for a person to cause the death of another as a result of the person's driving, operating, or controlling a vehicle or vessel in a criminally negligent manner. A violator is guilty of a misdemeanor and subject to maximum penalties of imprisonment for three years and/or a fine of \$5,000. A violation is criminally negligent manslaughter by vehicle or vessel. A vehicle includes a motor vehicle, streetcar, locomotive, engine, and train.

For purposes of this prohibition, a person acts in a criminally negligent manner with respect to a result or a circumstance when the person fails to perceive a substantial and unjustifiable risk that such a result will occur or that such a circumstance exists. The risk must be of such a nature and degree that the failure to perceive it constitutes a gross deviation from the standard of care that a reasonable person would observe in the situation.

Fiscal Summary

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

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

Small Business Effect: None.

Analysis

Current Law: A person may not cause the death of another as a result of the person's driving, operating, or controlling a vehicle or vessel in a grossly negligent manner. A violator is guilty of a felony and subject to maximum penalties of imprisonment for 10 years and/or a fine of \$5,000. A violation is manslaughter by vehicle or vessel. A vehicle includes a motor vehicle, streetcar, locomotive, engine, and train.

Gross negligence has been held to be a wanton or reckless disregard for human life.

Background: Chapter 414 of 1941 created the crime of manslaughter by automobile as a misdemeanor. Chapters 372 and 373 of 1997 changed the crime from a misdemeanor to a felony.

In 1993 in *Albrecht v. State* (97 Md.App. 630, 632 A.2d 163), the court held that both common-law manslaughter and statutory crime of manslaughter by automobile involve the same quality of gross criminal negligence.

This bill's provisions are the same as those provided under the *Model Penal Code*. At least 13 states have identical provisions to those provided under this bill: Alabama, Alaska, Colorado, Louisiana, Maine, Missouri, New York, Ohio, Oregon, Pennsylvania, Texas, Utah, and Wyoming.

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: 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 \$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: HB 137 (Delegate Simmons, *et al.*) – Judiciary.

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

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ncs/jr

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