

Department of Legislative Services  
Maryland General Assembly  
2005 Session

**FISCAL AND POLICY NOTE**

House Bill 171  
Judiciary

(Delegate Menes, *et al.*)

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**Homicide by Aggressive Driving**

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This bill creates the offense of homicide by aggressive driving. It provides that a person is guilty of homicide by aggressive driving if, while driving, the person commits two or more specified violations that result in a single traffic incident that causes the death of another person. A violator is guilty of a misdemeanor and subject to imprisonment in the penitentiary for up to three years and/or a fine up to \$5,000. A conviction of homicide by aggressive driving requires the assessment of 12 points against the driver's license.

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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 Transportation Trust Fund expenditures for computer programming costs in FY 2006 only. It is expected that the Judiciary could handle the bill's changes using existing budgeted resources.

**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:** The violations specified in the bill are as follows:

- obedience to traffic control devices;
- traffic lights with steady indication;

- driving on the right side of the roadway;
- overtaking and passing vehicles;
- following one way traffic and rotary traffic direction designations;
- driving on laned roadways;
- turning left or making a U-turn;
- following too closely;
- yielding the right-of-way to pedestrians in crosswalks;
- exercising driver's duty of due care to avoid injury;
- making a U-turn on a curve or the crest of a grade;
- overtaking and passing a school vehicle;
- obeying stop and yield signs;
- speeding in excess of the posted speed limit by 20 miles per hour or more; and
- limitations on backing a motor vehicle.

**Current Law:** State law does not contain a separate offense for homicide due to aggressive driving. However, a person is prohibited from committing manslaughter by motor vehicle by causing the death of another as a result of driving, operating, or controlling a motor vehicle 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 and/or a fine up to \$5,000.

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 up to \$1,000. The Motor Vehicle Administration (MVA) is also required to assess six points against the driver's license. The District Court assesses a fine of \$575 for this offense.

A person is guilty of negligent driving if the 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 District Court currently assesses a fine of \$275 for this offense.

A person is guilty of aggressive driving if three or more of the following vehicle laws are violated at the same time or during a single and continuous period of driving: (1) traffic lights with steady indication; (2) overtaking and passing vehicles; (3) passing on the right; (4) driving on laned roadways; (5) following too closely; (6) failure to yield the

right of way; and (7) exceeding a maximum speed limit or posted maximum speed limit. A violation is a misdemeanor, subject to a maximum fine of \$500. Upon conviction, the MVA must assess five points against the driver's license. Currently, the District Court assesses a fine of \$355 for this offense.

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 needed to meet the bill's requirements. The 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 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. The number of people convicted of this proposed crime is expected to be minimal. For a similar charge of homicide by motor vehicle while impaired or under the influence, there were 19 intakes in fiscal 2004, according to DOC.

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. For illustrative purposes, under the bill's maximum incarceration penalty the time served would be 36 months. Assuming the variable inmate costs of \$120 per month, State costs could increase by \$4,320 per month or \$51,840 annually for each person imprisoned under the bill.

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 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.

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### **Additional Information**

**Prior Introductions:** A similar bill, HB 173, was introduced in the 2004 session and was referred to the Judiciary Committee, where it received an unfavorable report. Two other similar bills, HB 320 from the 2003 session and HB 751 from the 2001 session, were each referred to the Judiciary Committee and each received an unfavorable report. In 2000, another similar bill, HB 417, passed the House and Senate, but was not reported out of conference committee.

**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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mam/jr

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