

Department of Legislative Services
 Maryland General Assembly
 2005 Session

FISCAL AND POLICY NOTE

House Bill 902
 Judiciary

(Delegate Petzold, *et al.*)

Moving Violations - Death - Notice to Appear

This bill provides that if a traffic citation is issued to a person for a moving violation that contributes to an accident and results in death to another person, that person may not comply with the notice to appear by prepayment of a fine. Instead, the person must appear in court. A police officer who issues a traffic citation for such a moving violation must check the box on the citation indicating that the person must appear for trial when notified by the court. If the offense is a moving violation that contributes to an accident and results in death to another person, and the court notifies the Motor Vehicle Administration (MVA) of the failure to appear, the requirement that a court must wait 20 days after the original trial date before issuing a warrant does not apply. A person who fails to appear in court is guilty of a misdemeanor and is subject to imprisonment of up to 90 days and/or a fine up to \$500.

Fiscal Summary

State Effect: Minimal increase in general fund revenues and expenditures due to the bill's penalty provisions. General fund expenditures increase by \$156,000 in FY 2006 due to one-time computer programming changes in the District Court. Minimal general fund expenditure increase due to bill's incarceration penalty.

(in dollars)	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
GF Revenue	-	-	-	-	-
GF Expenditure	156,000	-	-	-	-
Net Effect	(\$156,000)	\$0	\$0	\$0	\$0

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: Minimal increase in expenditures due to the bill's penalty provision. The bill's requirements could be enforced using existing budgeted resources.

Small Business Effect: None.

Analysis

Current Law: A traffic citation must contain: (1) a notice to appear in court; (2) the name and mailing address of the person cited; (3) the number of the person's driver's license and vehicle registration number, if applicable; (4) the violation charged; (5) the time and place for the required court appearance; and (6) a statement acknowledging receipt of the citation. In addition to any other necessary information, the citation must contain a clear and conspicuous statement that signing the citation does not constitute an admission of guilt, and that failure to sign the citation may subject the person to arrest.

Unless the person cited demands an earlier hearing, the notice to appear must be at least five days after the alleged violation. The appearance must be before a judge of the District Court.

A person may comply with a notice to appear by appearing in court in person, by appearance by counsel, or by payment of the fine, if provided for in the citation. A person may request, in lieu of trial, a hearing before the court on sentencing and disposition, if the person does not dispute the alleged facts and returns a copy of the citation to the District Court in the time allowed for payment of the fine. A person who requests a hearing on sentencing and disposition waives any right to a trial of the alleged facts and any right to compel the appearance of the law enforcement officer who issued the citation. Such a hearing may be requested only if the traffic citation is for an offense that is not punishable by incarceration.

If a person fails to comply with a notice to appear, the District Court or a circuit court may issue a warrant for the person's arrest, or after five days, notify the MVA of the person's noncompliance. If the MVA receives a notice of noncompliance from the District Court or a circuit court, the MVA must notify the person that his or her driving privileges will be suspended unless, by the end of the fifteenth day after the date on which the notice is mailed, the person pays the fine, or posts bond or a penalty deposit and requests a new trial or hearing date. If the person fails to pay the fine, post the bond, or a penalty deposit, the MVA is authorized to suspend the driving privileges of that person.

When the offense is not punishable by incarceration, if a court notifies the MVA of a person's failure to appear, a warrant may not be issued until 20 days after the original trial date.

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 in fiscal 2006 for the District Court could increase by \$156,000 in one-time start-up costs to make computer programming changes.

The District Court advises that the automated system for processing traffic violations has a predetermined designation for prepayment or a required appearance, depending on the statutory requirements. For the moving violations addressed in this bill, the statutory designation would no longer determine the prepayment or must appear status. About 30 programs in the automated system would be affected, and two methods for processing moving violations would be required. Additional trial and clerical time would be required to process the misdemeanor charge created by this bill. However, the District Court could process any additional misdemeanor charges using existing resources.

Legislative Services advises that if other legislation is enacted that changes the method for the determination of the prepayment or must appear status for moving or other violations, economies of scale could be realized and the District Court could reduce its expenditures.

The MVA advises that because a minimal number of convictions is anticipated under the bill's provisions, the requirements can be met 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 a Division of Correction (DOC) facility in Baltimore City. The number of people convicted of this proposed crime is expected to be minimal.

Generally, persons serving a sentence of one year or less in a jurisdiction other than Baltimore City are sentenced to a local detention facility. 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 a DOC facility. Currently, the DOC 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.

Local Expenditures: Expenditures could increase as a result of the bill's incarceration penalty. Counties pay the full cost of incarceration 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: This bill is a reintroduction of HB 902 from the 2004 session. HB 902 passed the House and was heard in the Judicial Proceedings Committee, but received no further action.

Cross File: None.

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

Fiscal Note History: First Reader - February 28, 2005
ncs/jr

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