

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 83 (Chairman, Judicial Proceedings Committee)
(By Request – Departmental – Public Safety and Correctional Services)

Judicial Proceedings Judiciary

Criminal Law - Places of Confinement - Controlled Dangerous Substances

This departmental bill alters current law penalties applicable to prohibitions against the delivery (or possession with the intent of delivery) of controlled dangerous substances to a detained or confined person as follows: (1) the offenses are changed from misdemeanor to felony status; and (2) the maximum imprisonment penalty is increased from 3 to 10 years and the maximum fine is increased from \$1,000 to \$5,000.

Fiscal Summary

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

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

Small Business Effect: The Department of Public Safety and Correctional Services (DPSCS) has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment. The attached assessment does not reflect amendments to the bill.

Analysis

Current Law: A person may not (1) deliver a controlled dangerous substance to a person detained or confined in a place of confinement; or (2) possess a controlled dangerous substance with the intent to deliver it to a detained or confined person. A

violator is guilty of a misdemeanor and subject to maximum penalties of imprisonment for three years and/or a fine of \$1,000.

The Criminal Law Article defines a controlled dangerous substance as:

- a drug or substance listed in Schedule I through Schedule V; or
- an immediate precursor to a drug or substance listed in Schedule I through Schedule V that: (1) by regulation is designated as being the principal compound commonly used or produced primarily for use to manufacture a drug or substance listed in Schedule I through Schedule V; (2) is an immediate chemical intermediary used or likely to be used to manufacture a drug or substance listed in Schedule I through Schedule V; and (3) must be controlled to prevent or limit the manufacture of a drug or substance listed in Schedule I through Schedule V.

A controlled dangerous substance does not include distilled spirits, wine, malt beverages, or tobacco.

“Place of confinement” means: (1) a correctional facility; (2) a facility of the Department of Health and Mental Hygiene; (3) a detention center for juveniles; (4) a juvenile facility, as specified; (5) a place identified in a juvenile community detention order; or (6) any other facility in which a person is confined under color of law. It does not include a place identified in a home detention order or agreement.

Background: DPSCS advises that the smuggling of controlled dangerous substances into places of confinement has become increasingly serious, and that increasing the penalty for such offenses would make the penalty consistent with, and comparable to, the penalty for assisting escape and delivering weapons to persons in places of confinement.

Changing crimes from misdemeanors to felonies generally means: (1) that such cases will be filed in the circuit courts rather than the District Court; and (2) some persons could eventually serve longer incarcerations due to enhanced penalty provisions, applicable to some offenses, for prior felony convictions. However, it is not known whether the prospect of a jury trial might spur more plea bargains and affect actual sentencing practices for these offenses.

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

State Expenditures: General fund expenditures could increase minimally as a result of the bill’s incarceration penalties due to more people being committed to 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 provisions from cases heard in the circuit courts.

Local Expenditures: Expenditures could increase minimally as a result of the bill's incarceration penalties. 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): Department of Public Safety and Correctional Services,
Department of Legislative Services

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