

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE

House Bill 1586

(Delegates Vallario and Kullen)

Judiciary

Criminal Procedure - Drunk and Drugged Driving Offenses - Alcohol or Drug Abuse - Residential Intensive Treatment Program

This bill requires the Department of Health and Mental Hygiene (DHMH) to include as an approved alcohol and drug treatment program, a clinically managed, short-term residential treatment program that provides work and other intensive therapy for at least 21 days, but not more than 35 days, to individuals who do not need medical monitoring. DHMH is required to adopt regulations for certifying, operating, and establishing standards for programmatic operations of the residential treatment programs specified in the bill.

Fiscal Summary

State Effect: The bill's requirements could be met with existing resources.

Local Effect: The bill's requirements could be met with existing resources.

Small Business Effect: Minimal. Private agency residential treatment programs that are not currently certified by DHMH may receive certification and referrals for additional patients as a result.

Analysis

Current Law: The Alcohol and Drug Abuse Administration (ADAA) of DHMH is required to promote, develop, certify, and monitor alcohol and drug abuse prevention, treatment, and rehabilitation programs and promote and conduct training and research on alcohol and drug misuse. In cooperation with the Motor Vehicle Administration, the

courts, police, and other agencies, ADAA must approve appropriate alcohol and drug abuse education or treatment programs for individuals who are convicted of alcohol-and/or drug-related driving offenses. The approved programs must be coordinated with and integrated into comprehensive community health and welfare services.

ADAA must review, approve, or disapprove each program that a public or private agency wants to offer for individuals placed on probation or given probation before judgment (PBJ) for specified crimes. The Administrative Office of the Courts must be notified of each approved program and ADAA must monitor and biennially review the approved programs. ADAA must investigate each complaint and promptly notify the Administrative Office of the Courts if approval is withdrawn from any program.

DHMH is required to adopt regulations for certifying, establishing, and operating alcohol and drug abuse treatment programs that include procedures for consulting with ADAA to set appropriate standards relating to care, rehabilitation services, environmental and safety requirements, and programmatic operations.

If a court places a defendant on probation for any of the following offenses, the court must require the defendant to participate in an alcohol or drug treatment or education program approved by DHMH:

- driving while under the influence of alcohol or under the influence of alcohol per se;
- driving while impaired by alcohol;
- driving while impaired by drugs or drugs and alcohol;
- driving while impaired by a controlled dangerous substance;
- homicide by motor vehicle or vessel while under the influence of alcohol or under the influence of alcohol per se;
- homicide by motor vehicle or vessel while impaired by alcohol;
- homicide by motor vehicle or vessel while impaired by drugs or drugs and alcohol;
- homicide by motor vehicle or vessel while impaired by a controlled dangerous substance; or
- life-threatening injury by motor vehicle or vessel while under the influence of alcohol and related crimes.

Participation is required as a condition of probation unless the court finds and states on the record that the defendant's and the public interest do not require this condition.

If the court is staying judgment and imposing PBJ for any of the above-mentioned offenses, before imposing the PBJ, the court may order DHMH to evaluate the defendant for alcohol or drug abuse. If the court orders the evaluation, the evaluation must be reviewed before imposing the PBJ. As a condition of probation, the court must require the defendant to participate in a DHMH-approved alcohol or drug treatment or education program, unless the court finds and states on the record that the defendant's and the public interest do not require this condition. The court may also prohibit the defendant from operating a motor vehicle that is not equipped with an ignition interlock system, unless the court finds and states on the record that the defendant's and the public interest do not require the condition.

A person who is convicted of driving a motor vehicle while under the influence of alcohol or under the influence of alcohol per se within five years of a prior conviction of any of those offenses must be required by the court to undergo a comprehensive alcohol abuse assessment. If recommended at the conclusion of the assessment, the defendant must participate in a court-ordered and approved alcohol treatment program that is certified by DHMH or by an agency in an adjacent state that is similar to DHMH. A person convicted of driving while under the influence of a controlled dangerous substance within five years of a prior conviction for that offense must be required by the court to undergo a comprehensive drug abuse assessment. If recommended at the conclusion of the assessment, the defendant must participate in a court-ordered and approved drug treatment program that is certified by DHMH or certified by an agency in an adjacent state that is similar to DHMH.

Background: ADAA is responsible for the establishment and support of a comprehensive alcohol and drug abuse delivery system. The fiscal 2005 appropriation for ADAA is \$133.2 million and the fiscal 2006 allowance is \$132.1 million. In fiscal 2006, ADAA expects to facilitate treatment of 61,484 clients through 8 detoxification, 18 methadone, 18 halfway house, 23 residential, 9 correctional and 65 outpatient programs.

During fiscal 2004, the District Court reports that it disposed of 67,622 alcohol- and/or drug-related citations (excluding the homicide and life-threatening injury by motor vehicle or vessel offenses listed above). Of those dispositions, the District Court granted 10,484 PBJs. In the same period, there were convictions on 8,413 citations and 1,744 citations were found not guilty.

Additional Information

Prior Introductions: None.

Cross File: None.

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

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ncs/jr

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