

Department of Legislative Services
 Maryland General Assembly
 2006 Session

FISCAL AND POLICY NOTE

House Bill 1150
 Judiciary

(Delegate Petzold, *et al.*)

Moving Violations - Death

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 the death of 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 a person is convicted of a moving violation and the trier of fact finds, beyond a reasonable doubt, that the moving violation contributed to an accident that resulted in the death of another person, the violator is subject to maximum penalties of imprisonment of 90 days and/or a fine of \$2,500.

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.

(in dollars)	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
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: The Maryland Vehicle Law does not provide a specific penalty for committing a moving violation that contributes to an accident that results in the death of a person. 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 maximum penalties of imprisonment for 10 years and/or a fine of \$5,000. The standard of “gross negligence” is a common law concept. The Court of Appeals has held that the evidence must be sufficient, beyond a reasonable doubt, to establish that the defendant had a wanton or reckless disregard for human life in the operation of the automobile. The conduct must be extraordinary or outrageous to meet this standard. (*State v. Kramer*, 318 Md. 756 (1990)).

Penalties involving points, fines, and/or imprisonment may attach to specified moving violations. Additional points may attach if the moving violation contributes to an accident. In addition to the specified points that may attach to the moving violation itself, a moving violation that contributes to an accident requires that the Motor Vehicle Administration (MVA) assess three points against a driver’s license. If a person accumulates three points within two years, the MVA must issue a warning letter to the driver.

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/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 or to 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 2007 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.

General fund expenditures could increase minimally as a result of the bill's incarceration penalty due to increased payments to counties for reimbursement of inmate costs and more people being committed to Division of Correction (DOC) facilities. 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 2007 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 \$1,974 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 \$341 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 2007.

Additional Information

Prior Introductions: This bill is a reintroduction of HB 902 of 2005, which was heard in the House Judiciary Committee but received no further action. This bill is also a reintroduction of HB 902 from the 2004 session, which passed the House and was heard in the Judicial Proceedings Committee but received no further action.

Cross File: None.

Information Source(s): Montgomery County, Prince George's County, Harford County, Carroll County, Queen Anne's County, St. Mary's County, Judiciary (Administrative Office of the Courts), Department of State Police, Maryland Department of Transportation, Department of Public Safety and Correctional Services, Department of Legislative Services

Fiscal Note History: First Reader - March 8, 2006
ncs/ljm

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