

Department of Legislative Services
Maryland General Assembly
2006 Session

FISCAL AND POLICY NOTE

Senate Bill 340 (Senator Jacobs, *et al.*)
Judicial Proceedings

Crimes - Drug-Related Child Endangerment - Penalties

This bill makes it a crime to manufacture, refine, or store any chemical, toxic material, or other precursor substance with the intent of manufacturing, distributing, dispensing, or possessing with intent to distribute controlled dangerous substances in a building in which a child resides or within 500 feet of the building. The bill also makes it a crime to manufacture, distribute, dispense, or possess with the intent to distribute controlled dangerous substances in a building in which a child resides or within 500 feet of the building. Both prohibitions apply whether or not the child was in the building or on the property at the time of the offense.

Fiscal Summary

State Effect: Potential minimal increase in general fund expenditures due to the bill's incarceration penalty provisions. Such effects would not occur for several years.

Local Effect: Potential minimal increase in local revenues due to the bill's monetary penalty provisions.

Small Business Effect: None.

Analysis

Bill Summary: A violator is guilty of the felony of drug-related child endangerment and subject to the following maximum penalties: (1) for a first offense, imprisonment for 15 years and/or a fine of \$20,000; (2) for each subsequent offense, imprisonment for 40 years (with a mandatory minimum of 5 years, which is nonsuspendable and

nonparolable) and/or a fine of \$40,000. A sentence must be consecutive to any other sentence imposed and a conviction under these provisions may not merge with convictions under specified other controlled dangerous substances prohibitions.

Current Law: A person may not manufacture, distribute, dispense, or possess with intent to distribute a controlled dangerous substance in violation of general prohibitions against such activity or conspire to commit any of these crimes: (1) in a school vehicle; or (2) in, on, or within 1,000 feet of real property owned by or leased to an elementary school, secondary school, or county board and used for elementary or secondary education.

A violator is guilty of the felony of drug-related child endangerment and subject to the following maximum penalties: (1) for a first offense, imprisonment for 20 years and/or a fine of \$20,000; (2) for each subsequent offense, imprisonment for 40 years (with a mandatory minimum of 5 years, which is nonsuspendable and nonparolable) and/or a fine of \$40,000. A sentence must be consecutive to any other sentence imposed and a conviction under these provisions may not merge with convictions under specified other controlled dangerous substances prohibitions.

Under provisions prohibiting reckless endangerment, a person may not recklessly: (1) engage in conduct that creates a substantial risk of death or serious physical injury to another; or (2) with certain exceptions, discharge a firearm from a motor vehicle in a manner that creates a substantial risk of death or serious physical injury to another. A violator is guilty of a misdemeanor subject to maximum penalties of imprisonment for five years and/or a fine of \$5,000. These provisions do not apply to conduct involving the use of a motor vehicle or the manufacture, production, or sale of a product or commodity.

For certain primary crimes involving controlled dangerous substances and paraphernalia, a person may not:

- manufacture, distribute, dispense, or possess with intent to distribute a controlled dangerous substance;
- manufacture, distribute, or possess a machine, equipment, or device that is adapted to produce a controlled dangerous substance with intent to use it to produce, sell, or dispense a controlled dangerous substance;
- create, distribute, or possess with intent to distribute a controlled dangerous substance;
- manufacture, distribute, or possess equipment designed to render a counterfeit substance;

- keep a common nuisance; or
- pass, issue, make, or possess a false, counterfeit, or altered prescription for a controlled dangerous substance with intent to distribute the controlled dangerous substance.

A violator is guilty of a felony and subject to maximum penalties of imprisonment for five years and/or a fine of \$15,000. A subsequent offender under these prohibitions must be sentenced to imprisonment for two years, which term is nonsuspendable and nonparolable. When the controlled dangerous substance is a Schedule I or Schedule II narcotic drug, a convicted person is subject to maximum penalties of imprisonment for 20 years and/or a fine of \$25,000. A repeat offender or conspirator, even if the prior conviction was under federal law or in another state, must receive a mandatory minimum sentence of 10 years and is subject to a maximum fine of \$100,000. The mandatory minimum sentence is nonsuspendable and nonparolable.

Under certain circumstances, a repeat offender or conspirator convicted of those same primary crimes involving a Schedule I or Schedule II narcotic drug is subject to a mandatory minimum nonsuspendable, nonparolable sentence of 25 years and a maximum fine of \$100,000. A convicted offender or a conspirator with three or more separate convictions for such offenses is subject to a mandatory minimum nonsuspendable, nonparolable sentence of 40 years and a maximum fine of \$100,000.

When the controlled dangerous substance was specified other drugs – including PCP, LSD, and MDMD – a convicted person is subject to maximum penalties of imprisonment for 20 years and/or a fine of \$20,000. A repeat offender or conspirator, even if the prior conviction was under federal law or in another state, must receive a mandatory minimum sentence of 10 years and is subject to a maximum fine of \$100,000. The mandatory minimum sentence is nonsuspendable and nonparolable. Under certain circumstances, a repeat offender or conspirator convicted of those same primary crimes involving the specified other drugs is subject to a mandatory minimum nonsuspendable, nonparolable sentence of 25 years and a maximum fine of \$100,000. A convicted offender or a conspirator with three or more separate convictions for such offenses is subject to a mandatory minimum nonsuspendable, nonparolable sentence of 40 years and a maximum fine of \$100,000.

A volume dealer, as defined by the amount of certain substances, is subject to a maximum fine of \$100,000 and, if the offense involved manufacturing, distributing, possessing with intent to distribute, or dispensing the controlled dangerous substance, the volume dealer is subject to a mandatory minimum nonsuspendable, nonparolable sentence of five years.

State Expenditures: General fund expenditures could increase minimally as a result of the bill's incarceration penalty due to people being committed to Division of Correction (DOC) facilities for longer periods of time. The number of people convicted under these provisions is expected to be minimal. The underlying offenses are already crimes and any additional incarceration costs stemming from this bill would not likely occur for several years.

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 \$1,974 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. Excluding medical care, the average variable costs total \$134 per month.

Local Revenues: Revenues could increase minimally as a result of the bill's monetary penalty provisions because these cases would be heard in the circuit courts.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts), Department of Public Safety and Correctional Services, Department of Legislative Services

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