

**Department of Legislative Services**  
Maryland General Assembly  
2006 Session

**FISCAL AND POLICY NOTE**

Senate Bill 901 (Senator Harris)  
Judicial Proceedings

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**Crimes - Prescription Drug Violations - Penalties**

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This bill increases penalties and the seriousness of prescription drug violations.

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**Fiscal Summary**

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

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

**Small Business Effect:** None.

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**Analysis**

**Bill Summary:** Under provisions governing prescriptions for or possession of opium, the bill alters penalty provisions as follows:

- for a first violation, a misdemeanor as under current law, the maximum fine is increased from \$1,000 to \$10,000 and a maximum imprisonment of 18 months is added as an alternative penalty; and
- for each subsequent violation, the offense is a felony rather than a misdemeanor, and the maximum fine is increased from \$2,000 to \$20,000 and a maximum imprisonment of 2 years is added, and allows the imposition of both.

Under provisions governing the dispensing of a prescription drug, the bill alters penalty provisions as follows:

- for a first violation, a misdemeanor as under current law, the maximum fine is increased from \$1,000 to \$10,000 (without change to the maximum incarceration penalty or the possible imposition of both); and
- for each subsequent violation, for which there are not now provisions, the offense is a felony with maximum penalties of imprisonment for two years and/or a fine of \$20,000.

**Current Law:** Under provisions governing prescriptions for or possession of opium, a violator is guilty of a misdemeanor and subject to the following maximum penalties:

- for a first violation, a fine of \$1,000;
- for a second violation, a fine of \$2,000; and
- for each subsequent violation, imprisonment for 18 months.

Under provisions governing the dispensing of a prescription drug, a violator is guilty of a misdemeanor and subject to maximum penalties of imprisonment for two years and/or a fine of \$1,000.

**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:** Changing crimes from misdemeanors to felonies means: (1) that such cases will likely 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. It is not known whether, under this bill's provisions, the prospect of a jury trial might spur more plea bargains and affect actual sentencing practices for this offense.

In any case, while this bill would shift some unknown number of cases from the District Court to the circuit courts, general fund expenditures could increase minimally as a result of the bill's incarceration penalty due to more people being committed to Division of Correction (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 \$1,974

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.

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 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 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 provision from cases heard in the circuit courts.

**Local Expenditures:** Expenditures could increase minimally as a result of the bill's incarceration penalty. 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 2007.

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### Additional Information

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Department of Public Safety and Correctional Services, Department of Health and Mental Hygiene, Department of Legislative Services

**Fiscal Note History:** First Reader - March 9, 2006  
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