

Department of Legislative Services
Maryland General Assembly
2006 Session

FISCAL AND POLICY NOTE

Senate Bill 188 (Senator Gladden)
Judicial Proceedings

Controlled Dangerous Substances - Penalties for Use or Possession of
Methamphetamine

This bill increases the penalty for possession or administration to another, obtaining or attempting to obtain, or procuring or attempting to procure the administration of a controlled dangerous substance, when the violation involves the use or possession of methamphetamine. Specifically, the bill increases the maximum penalties for these misdemeanor offenses from imprisonment for four years and/or a fine of \$25,000 to imprisonment for eight years and/or a fine of \$50,000. The bill also requires the Maryland Judicial Institute to provide education to judges regarding methamphetamine.

Fiscal Summary

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

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

Small Business Effect: None.

Analysis

Current Law: Possession or administration to another, obtaining or attempting to obtain, or procuring or attempting to procure the administration of a controlled dangerous substance subjects a violator to maximum penalties of imprisonment for four years and/or a fine of \$25,000. If the violation involves the use or possession of marijuana the maximum penalties are imprisonment for one year and/or a fine of \$1,000.

Chapter 442 of 2003 allows a person charged with possession or use of marijuana or related paraphernalia to introduce evidence related to medical necessity and, if the person is convicted and the court finds there was medical necessity, limits the maximum punishment to a fine of \$100.

Background: Methamphetamine, also known as “speed” or “meth,” is considered to be one of the nation’s most dangerous illegal drugs. Users on a “binge” may go days without sleep or food. The addiction is insidious and hard to overcome. Chronic methamphetamine abuse can lead to significant weight loss, psychotic and violent behavior, heart problems, and brain damage. Addiction to methamphetamine means serious health problems for the user and public health and environmental problems for the community.

Methamphetamine can be produced almost anywhere – from abandoned buildings in rural areas to apartments and even cars in more populated areas. Over the counter cold medicines containing pseudoephedrine are “cooked” with reagents such as iodine and solvents such as paint thinner to make the synthetic drug. While relatively simple and inexpensive to manufacture, the production of methamphetamine is hazardous. Eighty percent of methamphetamine manufactured in the U. S. is produced in sophisticated super labs; however, makeshift “mom and pop” labs make smaller quantities under conditions that often result in toxic explosions, fires, hazardous waste dumping, and child endangerment.

Federal officials have called methamphetamine “the fastest growing drug threat in the United States.” Its popularity began 20 years ago among biker gangs in the Southwest and is steadily advancing eastward.

To date, methamphetamine’s impact in Maryland is minimal, but surrounding areas have seen much more activity with an increasing number of methamphetamine labs seized. One methamphetamine lab was seized in Virginia in 2000 compared to 61 in 2004. The number of labs seized in West Virginia between 2000 and 2004 increased from 3 to 84 and in Pennsylvania from 8 to 63. As is true nationwide, methamphetamine users in Maryland have historically been concentrated in rural areas.

Three meth labs have been uncovered in Anne Arundel County recently. For one of them, a Millersville couple was indicted by a federal grand jury on four drug counts, including manufacturing with the intent to distribute and possession of methamphetamines. The couple’s operation was on rented property in the county and they have also been accused of operating one of the other two labs uncovered. In January 2006, two Harford County residents were sentenced to federal prison terms in connection with 2005 raids of several methamphetamine laboratories in Maryland and Pennsylvania.

Children found in locations where methamphetamine is manufactured are highly susceptible to inhaling and absorbing the toxic substances, and face serious safety risks from potential lab fires and explosions. Children may be left unsupervised, neglected, or even abused while parents are preoccupied with their addiction. Forty percent of child welfare officials in 2004 reported an increase in out-of-home placements due to methamphetamine use. States have addressed the problem of children being present at illicit drug laboratories by expanding their child endangerment laws to include exposing a child to an illicit chemical substance or establishing a separate offense of drug manufacturing in the presence of a child.

In addition, the manufacturing of methamphetamine poses a significant danger to first responders. Poisonous gases are released when the highly flammable and explosive chemicals are “cooked.” Every pound of methamphetamine produced generates five to seven pounds of toxic waste. Lab operators have dumped the toxic waste down household drains, in fields, in yards, and on rural roads. Emergency personnel require appropriate training in identifying and handling the contents of a lab as clean up of contaminated sites is critical. Some states (*e.g., Kentucky*) have made methamphetamine producers civilly liable for clean up costs.

Currently, Maryland law subjects a person convicted of manufacturing methamphetamine to maximum imprisonment of 5 years and subjects a person convicted of importation to a maximum of 25 years.

The Judicial Institute of Maryland was formed by administrative order of the Chief Judge of the Court of Appeals in 1981. The institute is responsible to the Maryland Judicial Conference for all judicial education and training. It develops, provides, and evaluates continuing legal education for Maryland’s judges and is governed by the 13-member board of directors, appointed to two-year terms by the Chief Judge.

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

State Expenditures: General fund expenditures could increase minimally as a result of the bill’s increased incarceration penalty due to people being committed to Division of Correction (DOC) facilities for longer periods of time and increased payments to counties for reimbursement of inmate costs. The bill is not expected to measurably affect the number of people convicted of this crime.

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.

With the use of in-house instruction at an already available location and suitable course length, the Judiciary could provide education to judges regarding methamphetamine at a cost of about \$2,000 for every 50 judges, which includes costs associated with mileage, meals, and course materials. Such costs are assumed to be absorbable within existing budgeted resources of the Judiciary.

Local Revenues: Revenues could increase minimally as a result of the bill's increased monetary penalty provision from cases heard in the circuit courts.

Local Expenditures: Expenditures could increase minimally as a result of the bill's increased 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.

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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Analysis by: Guy G. Cherry

Direct Inquiries to:
(410) 946-5510
(301) 970-5510