

Department of Legislative Services
Maryland General Assembly
2006 Session

FISCAL AND POLICY NOTE
Revised

House Bill 69
Judiciary

(Anne Arundel County Delegation)

Judicial Proceedings

Drug Free Zones - Community or Recreation Centers

This bill creates community and recreation center drug-free zones by prohibiting a person from manufacturing, distributing, dispensing, or possessing with intent to distribute a controlled dangerous substance (or to conspire to commit any of these crimes) within 1,000 feet of a “community and recreation center.”

Fiscal Summary

State Effect: Potential increase in general fund expenditures due to the bill’s incarceration penalty provisions.

Local Effect: Potential increase in revenues due to the bill’s monetary penalty provisions. Signage costs could be absorbed within existing budgeted resources.

Small Business Effect: None.

Analysis

Bill Summary: A violator is guilty of a felony and subject to the following maximum penalties: (1) for a first offense, a fine of \$20,000 and/or imprisonment for 20 years; and (2) for each subsequent offense, a fine of \$40,000 and/or imprisonment for 40 years. Sentences imposed under these provisions are required to be served consecutively to any other sentence imposed, and a conviction under these provisions may not merge with a conviction for other specified drug-related prohibitions.

The bill provides for the approval and evidentiary use of maps to define the location and boundaries of the covered areas for prosecutorial purposes. The bill’s provisions do not

preclude the prosecution from introducing other evidence to establish an element of a crime.

A county or municipal corporation may post signs designating these areas as “drug-free zones.” Such signs must be designed to provide notice of the provisions of this bill.

Current Law: A person is prohibited from manufacturing, distributing, dispensing, or possessing with intent to distribute a controlled dangerous substance within 1,000 feet of any school, or on a school vehicle. A violator is guilty of a felony and subject to the following maximum penalties: (1) for a first offense, a fine of \$20,000 and/or imprisonment for 20 years; and (2) for each subsequent offense, a fine of \$40,000 and/or imprisonment for 40 years and not less than 5 years. The mandatory minimum five-year sentence for a subsequent offense is nonsuspendable and nonparolable. Sentences imposed under these provisions are required to be served consecutively to any other sentence imposed, and a conviction under these provisions may not merge with a conviction for other specified drug-related prohibitions.

A county board of education is authorized to adopt regulations requiring the posting of signs designating the areas within 1,000 feet of schools as “drug-free school zones.”

State Expenditures: The extent to which the manufacture and distribution of illicit drugs is within 1,000 feet of community and recreation centers is not known. The extent to which the bill’s mandatory consecutive sentencing and its prohibition against merging convictions could increase actual sentences cannot be reliably estimated. The underlying activities covered under this bill are already criminal offenses.

In any event, this bill could lead to an increase in arrests and convictions, at least initially, for the covered offenses statewide depending on changes in enforcement practices. Accordingly, it is possible that general fund expenditures could increase as a result of incarceration penalties due to more people being committed to the Division of Correction (DOC) facilities for longer periods of time. The bill’s criminal penalties, as enhancements to the existing criminal penalties for the underlying crimes, increase the likelihood that the conviction for these offenses would lead to increased incarceration time in a State facility.

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 Revenue: Revenues could increase minimal as a result of the bill's monetary penalty provisions from cases heard in the circuit courts.

Additional Information

Prior Introductions: In 2003, SB 20 and HB 26, which would have created additional drug-free zones within 1,000 feet of a recreation area in Baltimore City, received unfavorable reports from the Senate Judicial Proceedings Committee and the House Judiciary Committee, respectively. HB 416 of 2001 would have created drug-free zones near recreation areas statewide. In 2000, HB 1140 would have created drug-free school zones applicable to certain drug paraphernalia. Both of these bills received an unfavorable report from the House Judiciary Committee. In 1999, SB 742 would have created similar drug-free zones near property used for preschool purposes. SB 742 received an unfavorable report from the Senate Judicial Proceedings Committee. HB 1225 of 1998 would have established State forests and parks as "drug-free zones." After a hearing before the House Judiciary Committee, no further action was taken on that bill.

Cross File: None.

Information Source(s): Town of Elkton, City of Takoma Park, City of Annapolis, Wicomico County, Allegany County, Montgomery County, Prince George's County, Talbot County, Judiciary (Administrative Office of the Courts), Baltimore City, Department of Public Safety and Correctional Services, Department of Legislative Services

Fiscal Note History: First Reader - January 30, 2006
ncs/jr Revised - House Third Reader - April 5, 2006

Analysis by: Guy G. Cherry

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