

**Department of Legislative Services**  
Maryland General Assembly  
2007 Session

**FISCAL AND POLICY NOTE**

House Bill 1066

(Delegate Taylor, *et al.*)

Judiciary

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**Criminal Procedure - Parole and Probation - Alcohol Monitoring Devices**

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This bill authorizes the Parole Commission to require, as a condition or modification of parole, a person who was convicted of a crime in which alcohol consumption by the person was a factor, to wear at the recipient's expense an alcohol monitoring device that continuously monitors blood alcohol consumption. The bill authorizes a court to require, as a condition of probation, a defendant to wear such a device when the crime for which the judgment is being stayed or the sentence being suspended is one in which the defendant's alcohol consumption was a factor.

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**Fiscal Summary**

**State Effect:** Minimal. The bill authorizes an additional electronic monitoring tool that may be ordered for parole or probation supervisees by the courts or the Maryland Parole Commission. The cost of the device would be borne by the supervisee.

**Local Effect:** None.

**Small Business Effect:** Minimal or none.

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**Analysis**

**Current Law:** Before or during any criminal trial or before sentencing, the court may order the Department of Health and Mental Hygiene to evaluate a defendant to determine whether, by reason of drug or alcohol abuse, the defendant is in need of and may benefit from treatment if it appears to the court that the defendant has a drug or alcohol problem or the defendant alleges an alcohol or drug dependency.

Generally, alcohol monitoring sanctions and testing are applied to offenders found to be impaired by alcohol or drugs while operating a motor vehicle or vessel.

In addition to the sanctions of fines, imprisonment, and license suspension and/or revocation, alternative sanction programs have been established that include drug and alcohol assessment and treatment, weekend confinement as a condition of probation, probation with home detention and electronic monitoring, and ignition interlock restrictions. Offenders may also be referred to the Drinking Driver Monitor Program as a condition of court-ordered probation or assigned by the Motor Vehicle Administration (MVA) as a condition for reinstatement of a driver's license. A court or the MVA may also require a drunk driving offender to install an ignition interlock device. The device connects a motor vehicle ignition to a breath analyzer that measures the driver's alcohol level and prevents the ignition from starting if the driver's blood alcohol level exceeds the device setting.

The Maryland Parole Commission has the exclusive power to authorize the parole of an inmate in a Division of Correction (DOC) facility. Parole entitles the recipient (1) to leave the correctional facility in which the recipient was confined; and (2) if the recipient satisfactorily complies with all the terms and conditions provided in the parole order, to serve the remainder of the recipient's term of confinement outside the confines of the correctional facility. A parolee remains in legal custody until the expiration of the parolee's full, undiminished term.

**Background:** A company called Alcohol Monitoring Systems, Inc. (AMS, headquartered in Highlands Ranch, CO) has patented a device known by the acronym SCRAM (Secure Continuous Remote Alcohol Monitor). The SCRAM device is worn as an ankle bracelet, and while in place it monitors the subject's blood alcohol by measuring the migration of alcohol through the wearer's skin. The measurements obtained are then converted from a perspiration-alcohol level to a blood-alcohol content. The company has also trademarked the acronym "TAC," which means "transdermal alcohol content."

An offender required to use a SCRAM device pays an average installation fee between \$50 and \$100 and a daily monitoring fee averaging between \$10 and \$12 a day. The SCRAM system requires that the offender have a phone line.

In December 2006, there were 15,786 offenders in the Drinking Driver Monitor Program. Any or all of these offenders could be subject to the provisions of this bill.

**State Fiscal Effect:** The courts and the Parole Commission already have the ability to impose special conditions of supervision on offenders subject to their purview, including home detention and electronic monitoring devices. These authorities currently may

impose special conditions that require offenders, at their expense, to install interlock devices on their automobiles to prevent operating a motor vehicle while under the influence of alcohol.

This bill empowers the courts and the Parole Commission to impose a specific monitoring condition of supervision when the incident offense may not be directly alcohol related, but alcohol is determined to be an underlying factor in the commission of the offense. The Division of Parole and Probation (DPP) cannot determine if the bill's provisions would significantly increase the probability that the courts or the Parole Commission would actually impose a monitoring condition of parole or probation. Of the 51,500 offenders under criminal supervision (probation, parole, and mandatory release) approximately 24,000 have special conditions requiring them to participate in substance abuse treatment. DPP records do not reflect whether the treatment is directed at alcohol or drug abuse or a combination of the two.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Maryland Department of Transportation (Motor Vehicle Administration), Department of Public Safety and Correctional Services, Department of Legislative Services

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