

Department of Legislative Services
Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE

House Bill 1252

(Delegate McComas, *et al.*)

Judiciary

Motor Vehicles - Accident Reports - Access and Disclosure

This emergency bill adds an employee or agent of a State's Attorney or other prosecutor to those persons authorized to access a motor vehicle accident report within 60 days after the date a report is filed. It specifies that, when requesting access to a motor vehicle accident report within 60 days of the date the report was filed, a State's Attorney or other prosecutor or their employee or agent is not subject to the requirements to present State-issued identification, proof of authorization to receive the report, and a statement pledging nondisclosure, as specified, to an officer of the issuing law enforcement agency. The bill changes the penalties for a person and a law enforcement officer who violate current provisions from felonies to misdemeanors and reduces the maximum imprisonment for an officer convicted of a violation from 15 years to 18 months.

Fiscal Summary

State Effect: Potential minimal increase in general fund revenues to the extent additional cases are heard in the District Court rather than the circuit courts due to changing offenses to misdemeanors rather than felonies. Potential minimal reduction in general fund expenditures due to reduction in incarceration penalties for some violators.

Local Effect: Potential minimal reduction in revenues to the extent cases are heard in the District Court rather than the circuit courts. Potential minimal expenditure savings to the extent fewer cases are heard in the circuit courts because the offense is designated a misdemeanor under the bill. Some offenders who would have been sentenced to a State facility could be sentenced to a local facility under the bill, thereby increasing State reimbursements for incarceration costs.

Small Business Effect: None.

Analysis

Current Law: A “motor vehicle accident” is defined as an occurrence involving a motor vehicle that results in damage to property or injury to a person. “Report” is defined as a report completed by an officer of a law enforcement agency that indicates that a motor vehicle accident has occurred and includes information about the persons involved in the accident, including their names, telephone numbers, and addresses.

For 60 days following a report’s filing date, it may be accessed only by • the individuals involved in the accident or their legal representatives; • the insurance producer, insurer, or employee or agent of the insurer of an individual involved in the accident; • a State’s Attorney or other prosecutor; • a representative of a victim services program; • an employee of a radio or television station licensed by the Federal Communications Commission; • an employee of a newspaper; or • a unit of local, State, or federal government that is otherwise authorized to have access to a report in furtherance of its duties.

With specified exceptions, a person that accesses a report within 60 days must present a valid driver’s license or other identification and proof that the person is authorized to receive the report. The person also has to present a statement indicating that from the time the person is granted access until 60 days after the report’s filing date • the report will not be used for any commercial solicitation of an individual listed in the report; and • the person will not knowingly disclose any information in the report to a third party for commercial solicitation of an individual listed in the report.

The dissemination or publication of news to the general public by legitimate media entitled to access reports is not prohibited.

A violator is a person who obtains a report in violation of the law or an officer of a law enforcement agency who knowingly discloses a report to a person who is not entitled to access the report. On conviction, a violator is guilty of a felony and is subject to a fine of up to \$10,000 and/or imprisonment for up to 15 years.

Background: This bill amends provisions enacted by Chapter 651 (HB 1409) of 2007. The law reflects model legislation recommended by the National Association of Insurance Commissioners and the National Conference of Insurance Legislators.

State Revenues: General fund revenues could increase minimally to the extent that cases are shifted to the District Court due to the bill's provision that changes the offenses to misdemeanors.

State Expenditures: Although complying with the provisions to broaden access to motor vehicle accident reports would not cause a material change in State finances, changing the violations from felonies to misdemeanors could have a fiscal impact on the Judiciary because more cases could be filed in the District Court. The bill also reduces the maximum incarceration penalty for law enforcement officers convicted under the bill, so a potential minimal reduction in general fund expenditures could occur since some people would spend significantly less time incarcerated under the bill's provisions.

General fund expenditures could be reduced as a result of the bill's incarceration penalty due to some people being committed to Division of Correction facilities for shorter periods of time. The number of people convicted that would be subject to the shorter incarceration period is expected to be minimal.

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 2009 are estimated to range from \$19 to \$71 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 Fiscal Effect: Revenues could be reduced minimally as a result of the bill's provision to the extent that cases that would have been heard in the circuit courts are shifted to the District Court under the bill's provisions.

Expenditures could potentially increase minimally to the extent offenders serve sentences at local detention facilities. 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 \$40 to \$129 per inmate in fiscal 2009.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): State's Attorneys' Association, Judiciary (Administrative Office of the Courts), Department of Legislative Services

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