

Department of Legislative Services
Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE

House Bill 152
Judiciary

(Delegates Kach and Olszewski)

**Vehicle Laws - Leaving the Scene of an Accident Resulting in Bodily Injury or
Death - Mandatory Arrest**

This bill requires a police officer to arrest, with or without a warrant, and take into custody a person who the police officer has probable cause to believe has violated the duty for each driver involved to remain at the scene of a traffic accident that results in bodily injury or death. The State law that authorizes release of a person after acknowledging and signing an issued traffic citation does not apply to this offense. Also, the State law that requires a person to be released after arrest if a public officer authorized to accept bail is unavailable and the person promises in writing to appear in court does not apply to this offense.

Fiscal Summary

State Effect: Any changes required by the bill and enforcement of the bill's provisions can be handled within the existing resources of the Judiciary and the Department of State Police.

Local Effect: Enforcement of the bill's provisions can be handled with existing resources. Potential minimal increase in expenditures due to mandatory detention.

Small Business Effect: None.

Analysis

Current Law: The driver of each vehicle involved in an accident resulting in bodily injury to or the death of another person must stop the vehicle as close as possible to the accident scene, without obstructing traffic any more than necessary. The driver of each

vehicle involved in an accident resulting in bodily injury to or the death of another person must immediately return to and remain at the accident scene until each driver has given information and rendered reasonable assistance as required by State law.

A police officer may arrest a person without a warrant for a violation of the Maryland Vehicle Law or any traffic law or ordinance of any local authority if:

- the person has committed or is committing specified violations in the view or presence of the officer relating to transporting hazardous materials or vehicle weight;
- the person has committed or is committing the violation in the view or presence of the officer and the person does not furnish identification or the officer has reasonable grounds to believe the person will disregard a traffic citation;
- the officer has probable cause to believe that the person committed any one of nine specified offenses relating to impaired driving, leaving the scene of an accident, driving without or on a suspended or revoked license, fleeing and eluding an officer, causing or contributing to an accident, or falsifying motor vehicle documents and registration plates;
- the person is a nonresident and the officer has probable cause to believe that the person committed the violation which contributed to an accident; or
- the officer has probable cause to believe that the person committed the violation, the person is issued a traffic receipt, and the person refuses to acknowledge its receipt by signature.

A person arrested without a warrant must be arrested in the same manner as other misdemeanor cases and taken without unnecessary delay before a District Court commissioner, unless the officer decides to release the person upon the person's written promise to appear for trial.

Generally, upon the issuance of a traffic citation, a police officer must ask the person cited to acknowledge receipt of the citation copy by signature. If the person complies with the signature requirement, the person is then free to leave. (*See Ferris v. State*, 355 MD. 356 (1999).) This provision applies except for specified offenses where the person may be arrested and detained, with or without a warrant, including the failure to stop, give information, or render reasonable assistance in the event of an accident resulting in bodily injury to or the death of any person. The signature requirement also does not apply if the person cited is incapacitated or otherwise unable to comply with the signature requirement or the citation is issued to an unattended vehicle, as specified.

If the person refuses to sign, the police officer must advise the person that failure to sign the citation may lead to arrest. Once advised of the possibility of arrest, a person may not

refuse to acknowledge receipt of the citation. If the person refuses to sign, the police officer may arrest the person.

If the police officer arrests the person cited and takes the person before a District Court commissioner, the person must be released on issuance of the citation if a commissioner, judge, or other public officer authorized to accept bail is unavailable and the person gives a written promise to appear in court.

State Expenditures: The Department of Legislative Services (DLS) advises that changes required by the bill can be handled within the existing resources of the District Court. According to fiscal 2008 data from the District Court, about 320,000 people are taken before District Court commissioners annually throughout the State. The District Court advises that, based on historical data, an additional 1,000 people may be taken arrested and taken into custody under this bill. The estimated increased workload represents less than a 1% increase in the total workload of the District Court. Accordingly, DLS advises that this increase is manageable within existing resources.

Local Expenditures: The counties of Allegany, Harford, and Montgomery all advise that the bill's provisions can be enforced with existing resources. Nevertheless, to the extent the bill results in additional detentions, local expenditures increase.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Allegany, Harford, Montgomery, Talbot, and Wicomico counties; Baltimore City, Judiciary (Administrative Office of the Courts), Department of State Police, Maryland Department of Transportation, Department of Legislative Services

Fiscal Note History: First Reader - February 2, 2009
ncs/ljm

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