

Department of Legislative Services
Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE

Senate Bill 1022 (Senators Mooney and Muse)
Judicial Proceedings

**Driving While Under the Influence of Alcohol or Impaired by a Controlled
Dangerous Substance - First Offense - Minimum Sentence**

This bill establishes a mandatory minimum sentence of two days imprisonment for a first offense of driving or attempting to drive a vehicle while (1) under the influence of alcohol; (2) under the influence of alcohol *per se*; (3) impaired by a controlled dangerous substance; or (4) doing any of the above while transporting a minor. The mandatory minimum sentence of two days must include confinement on both a Saturday and a Sunday. The court may not impose less than the mandatory minimum sentence of two days, and the court may not suspend any part of the sentence.

Fiscal Summary

State Effect: It is anticipated that the District Court and the Division of Correction can implement the bill's requirements with existing resources.

Local Effect: Potential minimal increase in expenditures due to the bill's penalty provision. It is anticipated that the circuit courts can implement the bill's requirements with existing resources.

Small Business Effect: None.

Analysis

Current Law: A person may not drive or attempt to drive any vehicle while:

- under the influence of alcohol or under the influence of alcohol *per se*;

- impaired by a controlled dangerous substance; or
- committing any of the above offenses and transporting a minor.

For a first conviction of driving or attempting to drive while under the influence of alcohol, under the influence of alcohol *per se*, or driving while impaired by a controlled dangerous substance, the offender is subject to maximum penalties of imprisonment for one year and/or a fine of \$1,000. If an offender is transporting a minor at the time of committing any of the above offenses, the maximum penalties increase to two years imprisonment and/or a fine of \$2,000.

For the purpose of second or subsequent offender penalties, a conviction of driving or attempting to drive while impaired alcohol or impaired by drugs and/or drugs and alcohol is considered a conviction of driving while under the influence of alcohol, under the influence *per se* or while impaired by a controlled dangerous substance.

The Motor Vehicle Administration (MVA) is required to assess 12 points against a person who is convicted the first time of any of the above-mentioned offenses and that person is subject to license revocation. For a first revocation of the driver's license, the person may submit a reinstatement application any time after the day the revoked license is surrendered to and received by MVA. If the person does not have a license issued under the Maryland Vehicle Law, then the application may be submitted after the effective date of revocation. MVA may reinstate the driver's license six months after the revoked license is received by MVA or six months after the effective date of revocation, as appropriate. If the person was involved in a vehicular accident resulting in the death of another person, however, MVA may reinstate the license only after it finds that it will be safe to do so after an investigation of the person's habits and driving ability.

State Expenditures: The District Court advises that this bill may require additional time for the processing of commitments. In fiscal 2008, there were about 5,000 guilty dispositions for alcohol- and/or drug-related driving offenses, but no information is available on how many of the guilty dispositions were for first offenses. The Department of Legislative Services advises, however, that while the bill does require a mandatory minimum sentence, it applies only in those cases where the District Court decides to impose a sentence of incarceration. For those convicted of a first offense, the District Court still retains the discretion to impose a fine instead of a sentence of imprisonment. Accordingly, Legislative Services advises that the bill can be implemented with existing resources.

Local Expenditures: While the bill may create an increase in prayers for jury trials in the circuit courts, it is anticipated that the circuit courts can handle the bill's requirements with existing resources.

To the extent the number of weekend detentions increase, local expenditures may increase as a result of the bill's mandatory minimum incarceration penalty. Baltimore City and Montgomery County advise, however, that the bill does not have a fiscal impact. Counties pay the full cost of incarceration 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 \$46 to \$141 per inmate in fiscal 2010.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Baltimore City, Montgomery County, Commission on Criminal Sentencing Policy, Judiciary (Administrative Office of the Courts), Department of State Police, Department of Public Safety and Correctional Services, State's Attorneys' Association, Department of Legislative Services

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mlm/ljm

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