

Department of Legislative Services
Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE

Senate Bill 424

(Senator Jacobs, *et al.*)

Judicial Proceedings

**Crimes - Commission of Vehicular Manslaughter While Driver's License or
Privilege Is Suspended or Revoked - Mandatory Minimum Sentence**

This bill creates a felony offense for committing manslaughter by vehicle or vessel while the driver's license is refused, canceled, suspended, or revoked. A person who commits this offense is guilty of a felony and is subject to imprisonment for at least 3 years and up to 10 years. A court is prohibited from imposing less than the mandatory minimum sentence of three years and may not suspend any part of the mandatory minimum sentence. The bill does not limit the assessment of points for the underlying offenses.

Fiscal Summary

State Effect: Minimal increase in general fund expenditures due to the bill's mandatory minimum incarceration provision. No effect on revenues.

Local Effect: Enforcement can be handled with existing resources.

Small Business Effect: None.

Analysis

Current Law: A person is prohibited from committing manslaughter by motor vehicle by causing the death of another as a result of driving, operating, or controlling a motor vehicle in a grossly negligent manner. A person who violates this provision is guilty of a felony and is subject to maximum penalties of 10 years imprisonment and/or a fine of \$5,000. The Motor Vehicle Administration (MVA) must assess 12 points against the license of a person convicted of this offense, and the license is subject to revocation.

A person is prohibited from driving a motor vehicle while the person's license or privilege to drive is refused, canceled, suspended, or revoked in this State or any other state. A person is prohibited from driving a motor vehicle while the person's license is suspended for a lapse in auto insurance, noncompliance with a notice to appear for a traffic citation or a federal traffic citation, or nonpayment of a traffic fine. A person may not drive a motor vehicle while the person's driving license or privilege is suspended under the traffic laws of any other state for failure to comply with a notice to appear or pay a traffic fine connected with a traffic citation issued by that state.

A person who is convicted of any of the above mentioned provisions must be assessed points against the driver's license as specified. Driving after suspension of the driver's license due to a lapse in auto insurance, noncompliance with a notice to appear for a traffic citation or a federal traffic citation, or nonpayment of a fine requires the assessment of three points against the driver's license. Driving after refusal, suspension, cancellation, or revocation of a license under the traffic laws of another state also requires the assessment of three points against the driver's license. The violator is also guilty of a misdemeanor and is subject to maximum penalties of two months imprisonment and/or a \$500 fine.

A person who is otherwise convicted of driving after refusal, suspension, cancellation, or revocation of the driver's license must receive an assessment of 12 points against the driver's license. The violator is subject to maximum penalties of imprisonment for one year and/or a fine of \$1,000 for a first offense. For any subsequent offense, the maximum penalties are two years imprisonment and/or a fine of \$1,000.

MVA must send a warning letter to any individual who accumulates three points within a two-year period. If an individual accumulates eight points within a two-year period, MVA must issue a notice of suspension. If an individual accumulates 12 points within a two-year period, MVA must issue a notice of license revocation. A license suspension or revocation becomes effective at the end of the 10-day period after the notice is sent.

Generally, if a law establishes a minimum and maximum penalty for a crime, a court may impose a lesser penalty of the same character, rather than the specified minimum penalty. This authority does not apply if the maximum penalty is fixed by law or the law sets forth only one penalty.

State Expenditures: General fund expenditures increase minimally as a result of the bill's incarceration penalty due to people being committed to Division of Correction (DOC) facilities for longer periods of time. The number of people convicted of this proposed crime is expected to be minimal. According to the Maryland State Commission on Criminal Sentencing Policy, there were a total of 33 convictions for vehicular manslaughter in the circuit courts during fiscal 2008. No data is available to

indicate which of the perpetrators did not have a valid Maryland driver's license at the time the vehicular manslaughter offense occurred.

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 \$2,600 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 variable medical care and variable operating costs) is \$342 per month. Excluding all medical care, the average variable costs total \$164 per month.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Commission on Criminal Sentencing Policy, Judiciary (Administrative Office of the Courts), Department of State Police, Maryland Department of Transportation, Department of Legislative Services

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mlm/ljm

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