

Department of Legislative Services  
Maryland General Assembly  
2010 Session

FISCAL AND POLICY NOTE

House Bill 1035  
Judiciary

(Delegate King)

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Criminal Law - First Degree Escape - Escape from Drug and Alcohol Treatment  
Facilities

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This bill prohibits a person from knowingly escaping from the Department of Health and Mental Hygiene (DHMH) after a court-ordered commitment to DHMH for treatment for a drug or alcohol dependency.

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Fiscal Summary

**State Effect:** Potential minimal increase in State expenditures due to the bill's incarceration penalty. Revenues are not affected.

**Local Effect:** Potential minimal increase in local revenues due to the bill's monetary penalty.

**Small Business Effect:** None.

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Analysis

**Current Law:** A person may not knowingly escape from a place of confinement. A person is also prohibited from escaping from a juvenile detention center or other facilities for juveniles specified in statute and in the course of the escape commit an assault. Violators are guilty of first-degree escape, a felony punishable by a maximum penalty of 10 years imprisonment and/or a \$20,000 fine.

A court that finds in a criminal case that a defendant has an alcohol or drug dependency may commit the defendant to a drug or alcohol treatment program. The commitment can

be made as a condition of release, after conviction, during probation, or at any other time the defendant voluntarily agrees to participate in treatment.

**Background:** In fiscal 2009, the Division of Correction (DOC) conducted intake on eight individuals for first-degree escape. The average sentence was 46 months.

**State Expenditures:** General fund expenditures increase minimally as a result of the bill's incarceration penalty due to more people being committed to DOC facilities for longer periods of time and increased payments to counties for reimbursement of inmate costs. The number of people convicted of this proposed crime is expected to be minimal.

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 \$2,750 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 \$409 per month. Excluding all medical care, the average variable costs total \$182 per month.

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. Prior to fiscal 2010, the State reimbursed counties for part of their incarceration costs, on a per diem basis, after a person has served 90 days. Currently, the State provides assistance to the counties for locally sentenced inmates and for inmates who are sentenced to and awaiting transfer to the State correctional system. A \$45 per diem grant is provided to each county for each day between 12 and 18 months that a sentenced inmate is confined in a local detention center. Counties also receive an additional \$45 per day grant for inmates who have been sentenced to the custody of the Division of Correction but are confined in a local facility. The State does not pay for pretrial detention time in a local correctional facility. Persons sentenced in Baltimore City are generally incarcerated in DOC facilities. The Baltimore City Detention Center, a State-operated facility, is used primarily for pretrial detentions.

The Office of the Public Defender advises that the bill will not increase prosecutions since individuals who leave court-ordered treatment without authorization are prosecuted under current law as drug or alcohol treatment "walk-offs."

**Local Fiscal Effect:** Revenues increase minimally as a result of the bill's monetary penalty provision from cases heard in the circuit courts.

The Town of Bladensburg; Baltimore City; and the counties of Kent, Montgomery, Washington, and Worcester report that the bill is not expected to have a fiscal impact.

Worcester County also reported that the Worcester County Health Department maintains out-patient facilities only.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Baltimore City; Kent, Montgomery, Washington, and Worcester counties; Town of Bladensburg; Commission on Criminal Sentencing Policy; Department of Health and Mental Hygiene; Office of the Public Defender; State's Attorneys' Association; Department of Legislative Services

**Fiscal Note History:** First Reader - February 28, 2010  
mam/kdm

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