

Department of Legislative Services
Maryland General Assembly
2010 Session

FISCAL AND POLICY NOTE

House Bill 1439

(Delegate Shewell, *et al.*)

Judiciary

Alcohol- or Drug-Related Crimes - Serious Physical Injury by Motor Vehicle or Vessel - Penalties

This bill alters the elements of the offense of causing injury by motor vehicle or vessel while under the influence of alcohol or impaired by alcohol, drugs, or a controlled dangerous substance from requiring a “life-threatening injury” to a “serious physical injury.” The bill increases the maximum penalties for the altered offenses of causing serious physical injury by motor vehicle or vessel while (1) impaired by alcohol; (2) impaired by a drug, drugs, and/or drugs and alcohol; or (3) impaired by a controlled dangerous substance from a fine of \$3,000 and/or two years imprisonment to a fine of \$5,000 and/or three years imprisonment. As a result, all offenses of serious physical injury by motor vehicle or vessel have the same maximum penalties.

Fiscal Summary

State Effect: Potential minimal increase in general fund revenues and expenditures due to the bill’s penalty provisions.

Local Effect: Potential minimal increase in revenues and expenditures due to the bill’s penalty provisions.

Small Business Effect: None.

Analysis

Current Law: “Serious physical injury” is defined as a physical injury that creates a substantial risk of death or causes permanent or protracted disfigurement or loss or impairment of the function of any bodily member or organ. “Life-threatening injury” is not defined in statute.

A “motor vehicle” is a vehicle that is self-propelled or propelled by electric power obtained from overhead electrical wires and is not operated on rails. A motor vehicle includes a low-speed vehicle but does not include a moped or motor scooter. Under the Criminal Law Article, a “vessel” is any watercraft that is used or capable of being used as a means of transportation on water or ice but does not include a seaplane.

A person may not cause a life-threatening injury to another person as a result of negligently driving, operating, or controlling a motor vehicle or vessel while: (1) under the influence of alcohol or under the influence of alcohol *per se*; (2) impaired by alcohol; (3) so far impaired by a drug, drugs, and/or drugs and alcohol that the person cannot drive, operate, or control a motor vehicle or vessel safely; or (4) impaired by a controlled dangerous substance that the person is not entitled to use under State law.

A person who is convicted of life-threatening injury by motor vehicle or vessel while under the influence of alcohol or under the influence of alcohol *per se* is guilty of a misdemeanor and is subject to maximum penalties of a fine of \$5,000 and/or three years imprisonment. A person who is convicted of life-threatening injury by motor vehicle or vessel while: (1) impaired by alcohol; (2) impaired by drugs and/or alcohol; or (3) impaired by a controlled dangerous substance is guilty of a misdemeanor and is subject to maximum penalties of a fine of \$3,000 and/or two years imprisonment.

A person who is in a motor vehicle accident that results in death or life-threatening injury to another person must be required to submit to a test if detained by an officer who has reasonable grounds to believe the person committed an alcohol and/or drug-related driving offense. The Motor Vehicle Administration must assess 12 points against the license of a person who is convicted of causing a life-threatening injury by motor vehicle or vessel while under the influence of alcohol and related crimes and the license is subject to revocation.

State Revenues: General fund revenues increase minimally as a result of the bill’s monetary penalty provisions from cases heard in the District Court.

State Expenditures: General fund expenditures increase minimally as a result of the bill’s incarceration penalties due to people being committed to Division of Corrections (DOC) facilities for longer periods of time and increased payments to counties for reimbursement of inmate costs. The number of people sentenced to longer incarceration terms under this bill’s provisions is expected to be minimal. The Maryland Commission on Sentencing Policy reports that there was one conviction from the circuit courts for life-threatening injury while impaired by drugs and two convictions of life-threatening injury while impaired by a controlled dangerous substance.

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 DOC 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.

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

Local Expenditures: Expenditures increase minimally as a result of the bill's incarceration penalties. Counties pay the full cost of incarceration for people their facilities for the first 12 months of the sentence. A \$45 per diem State 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 DOC but are confined in a local facility. Per diem operating costs of local detention facilities are expected to range from \$57 to \$157 per inmate in fiscal 2011.

Additional Comments: The provision that authorizes a police officer to compel a test for alcohol or drugs is not amended by this bill. Accordingly, a motor vehicle accident has to result in "life-threatening injury" or death for a police officer to be authorized to compel a person to submit to a test of blood or breath if that person is detained because the officer has reasonable grounds to believe the person committed an alcohol- and/or drug-related driving offense.

Additional Information

Prior Introductions: HB 219 of 2007, a similar bill, was heard by the House Judiciary Committee but received no further action. Another similar bill, SB 635 of 2006, was referred to the Senate Judicial Proceedings Committee, but was withdrawn after being heard. Its cross file, HB 675, was heard in the House Judiciary Committee but received no further action. A similar bill, HB 1032 of 2005, was heard in the House Judiciary Committee but did not receive any further action. Similar legislation was also introduced in the 2004 and 2003 legislative sessions.

Cross File: SB 697 (Senator Haines) - Judicial Proceedings.

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

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