

HB 1332

Department of Legislative Services

Maryland General Assembly

2011 Session

FISCAL AND POLICY NOTE

House Bill 1332 (Delegate McConkey)
Judiciary

Anne Arundel County - Drug-Free Zones Pilot Program - Public Parks and Recreation Areas

This bill establishes a pilot program in Anne Arundel County during which a person who uses or possesses with the intent to use drug paraphernalia to engage in specified activities prohibited under current law in a “public park or recreation area” is subject to specified enhanced penalties. “Public park or recreation area” is defined as any park or athletic facility that is under the jurisdiction of the Anne Arundel County Department of Recreation and Parks.

The bill takes effect on October 1, 2011, and terminates on September 30, 2014.

Fiscal Summary

State Effect: Potential minimal increase in general fund revenues in FY 2012 through 2015 from monetary penalties imposed in District Court cases. State expenditures are not affected.

Local Effect: Potential minimal increase in local revenues from monetary penalties imposed in circuit court cases. Anne Arundel County expenditures increase by \$11,000 in FY 2012 only for the county to post signs in public parks and recreation areas to comply with the bill's signage requirements.

Small Business Effect: None.

Analysis

Bill Summary: A person is prohibited from using or possessing with the intent to use drug paraphernalia in a public park or recreation area to:

- plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, or conceal a controlled dangerous substance; or
- inject, ingest, inhale, or otherwise introduce into the human body a controlled dangerous substance.

First-time violators are guilty of a misdemeanor and subject a maximum fine of \$1,000. Subsequent violations are subject to maximum penalties of two years imprisonment and/or a \$4,000 fine. If a defendant is convicted under the bill for the first time but was convicted, when he/she was at least 18 years old, of delivering drug paraphernalia to a minor who was at least three years younger than the defendant at the time, the defendant is subject to the maximum penalties for a subsequent offender.

If the alleged violation involves drug paraphernalia related to marijuana, the defendant may introduce evidence of medical necessity and the court must consider the evidence as a mitigating factor. If the court finds that the defendant used or possessed drug paraphernalia related to marijuana because of medical necessity, the maximum penalty the court may impose is a fine of \$100.

The bill also allows Anne Arundel County to post signs designating a public park or recreation area as a “drug free zone.” Such signs must be designed to provide notice of the provisions of this bill.

Current Law: Unless authorized under law, a person may not use or possess with intent to use drug paraphernalia to:

- plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, or conceal a controlled dangerous substance; or
- inject, ingest, inhale, or otherwise introduce into the human body a controlled dangerous substance.

Violators are guilty of a misdemeanor and are subject to maximum penalties of (1) a \$500 fine for a first violation; and (2) imprisonment for two years and/or a \$2,000 fine for subsequent violations.

If a defendant is a first-time offender with respect to the “use or possession” drug paraphernalia prohibition but was previously convicted when he/she was at least 18 years old of delivering drug paraphernalia to a minor who was at least three years younger, the person is subject to maximum penalties of imprisonment for two years and/or a fine of \$2,000.

Regarding drug paraphernalia related to marijuana, the defendant may introduce and the court must consider as a mitigating factor any evidence of medical necessity. If the court finds that the person used or possessed drug paraphernalia related to marijuana because of medical necessity, on conviction, the maximum penalty that the court may impose is a \$100 fine.

State Revenues: The bill authorizes a court to impose higher monetary penalties for a violation that occurs in a public park or recreation area in Anne Arundel County than currently provided for the same violations under existing statute. As a result, general fund revenues increase minimally from fiscal 2012 through 2015 due to monetary penalties imposed in District Court cases.

State Expenditures: Since the bill maintains the same incarceration penalties imposed for identical violations under current law, State expenditures are not affected by the bill.

Local Revenues: Anne Arundel County revenues increase minimally from fiscal 2012 through 2015 as a result of the bill's monetary penalty provisions from cases heard in the circuit courts.

Local Expenditures: Anne Arundel County advises that it will cost \$11,000 in fiscal 2012 for the county to post signs designating a public park or recreation area as a "drug free zone."

Since the bill maintains the same incarceration penalties imposed for identical violations under current law, local incarceration expenditures are not affected by the bill.

Additional Information

Prior Introductions: None.

Cross File: Though designated as a cross file, SB 213 (Senator Simonaire, *et al.* - Judicial Proceedings) is not identical.

Information Source(s): Anne Arundel County, Commission on Criminal Sentencing Policy, Department of Natural Resources, Office of the Public Defender, Department of Legislative Services

Fiscal Note History: First Reader - March 18, 2011
ncs/kdm

Analysis by: Amy A. Devadas

Direct Inquiries to:
(410) 946-5510
(301) 970-5510