

Department of Legislative Services
Maryland General Assembly
2012 Session

FISCAL AND POLICY NOTE
Revised

House Bill 350
Judiciary

(Delegate Clippinger, *et al.*)

Judicial Proceedings

Criminal Law - Possession of Marijuana - De Minimis Quantity

This bill establishes a reduced penalty of imprisonment for up to 90 days and/or a maximum fine of \$500 for possession of less than 10 grams of marijuana and prohibits the use or possession of less than 10 grams of marijuana from being considered a lesser included crime of any other crime unless specifically charged by the State. If a person is convicted of possessing less than 10 grams of marijuana, the court must stay any imposed sentence that includes an unserved, nonsuspended period of imprisonment without requiring an appeal bond (1) until the time for filing an appeal has expired; and (2) during the pendency of a filed appeal of the conviction.

Fiscal Summary

State Effect: Minimal decrease in general fund revenues from fines imposed in the District Court. Minimal decrease in general fund expenditures for the Department of Public Safety and Correctional Services due to shorter incarcerations in Baltimore City as a result of the bill's incarceration penalty.

Local Effect: Minimal decrease in local expenditures for incarcerations due to the bill's incarceration penalty. Circuit court revenues and expenditures decrease minimally due to the elimination of these types of marijuana possession cases from the circuit courts.

Small Business Effect: None.

Analysis

Current Law: The use or possession of marijuana is a misdemeanor, with maximum criminal penalties of one year imprisonment and/or a \$1,000 fine. If the court finds that

the defendant used or possessed marijuana out of medical necessity, the maximum punishment is a \$100 fine.

Background: According to the *2010 Uniform Crime Report*, there were 23,729 arrests in the State for possession of marijuana. The report does not distinguish the arrests by the amount of marijuana possessed. According to the Judiciary, there were 4,023 guilty dispositions, 2,164 unsupervised probations before judgment, and 702 supervised probations before judgment for possession of marijuana in the District Court during fiscal 2011. According to the Maryland State Commission on Criminal Sentencing Policy, there were 385 convictions in the circuit courts for possession of marijuana in fiscal 2010. It is unclear how many of these convictions involved less than 10 grams of marijuana.

State Revenues: General fund revenues decrease as a result of the bill's reduction of a monetary fine for possession of less than 10 grams of marijuana.

State Expenditures: General fund expenditures decrease minimally due to shorter incarcerations in Baltimore City. Generally, persons serving a sentence of one year or less in a jurisdiction other than Baltimore City are sentenced to a local detention facility. The Baltimore City Detention Center, a State-operated facility, is used primarily for pretrial detentions.

Local Fiscal Effect: Local expenditures for detention facilities decrease due to the reduced incarceration penalty for possession of less than 10 grams of marijuana. Circuit court revenues and expenditures decrease minimally due to the elimination of these types of marijuana possession cases from the circuit courts.

Counties pay the full cost of incarceration for people in their facilities for the first 12 months of the sentence. Per diem operating costs of local detention facilities have ranged from \$60 to \$160 per inmate in recent years.

A defendant is typically entitled to a jury trial in a circuit court if the defendant is charged with an offense that permits confinement for more than 90 days. Under the bill, a person convicted of possessing less than 10 grams of marijuana would not be entitled to a jury trial. Fine revenue from cases heard in the circuit courts go to the appropriate county.

Additional Information

Prior Introductions: None.

Cross File: SB 214 (Senator Raskin) - Judicial Proceedings.

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

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