

Department of Legislative Services  
Maryland General Assembly  
2012 Session

FISCAL AND POLICY NOTE

House Bill 984  
Judiciary

(Delegates McDermott and Cluster)

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Vehicle Laws - Driving While Impaired by Controlled Dangerous Substance -  
Penalties

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This bill increases criminal penalties for the first and subsequent offenses of driving while impaired by a controlled dangerous substance. Instead of maximum penalties ranging from one to two years imprisonment and/or fines ranging from \$1,000 to \$2,000 for first and second offenses, a person convicted of this offense under the bill is subject to maximum penalties of a fine of \$3,000 and/or three years imprisonment.

If the offense is committed while the driver is transporting a minor, instead of maximum penalties ranging from fines of \$2,000 to \$4,000 and/or imprisonment from two years to four years, the maximum penalties for a first or second offense under the bill are a fine of \$3,000 and/or three years imprisonment. For a third or subsequent offense, a violator is subject to maximum penalties of a fine of \$4,000 and/or four years imprisonment.

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Fiscal Summary

**State Effect:** Minimal increase in general fund revenues and expenditures due to the bill's penalty provisions.

**Local Effect:** Minimal increase in revenues and expenditures due to the bill's penalty provisions.

**Small Business Effect:** None.

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## Analysis

**Current Law:** A person is prohibited from driving or attempting to drive any vehicle while impaired by a controlled dangerous substance. A first offense is punishable by maximum penalties of a fine of \$1,000 and/or imprisonment for one year. Maximum penalties for second and third offenses each increase by \$1,000 and an additional year of imprisonment with a maximum penalty of a fine of \$3,000 and/or imprisonment for three years.

A person who is convicted of driving or attempting to drive while impaired by a controlled dangerous substance *within* five years after a prior conviction for any included offenses is subject to a mandatory minimum penalty of imprisonment for at least five days. A person who is convicted a third or subsequent time *within* five years of this same offense is subject to a mandatory minimum penalty of imprisonment for at least 10 days. Imprisonment includes confinement in an inpatient rehabilitation or treatment center or home detention that includes electronic monitoring for the purpose of participation in a certified or court-approved drug treatment program. The Motor Vehicle Administration (MVA) is required to suspend for one year the license of anyone convicted of driving or attempting to drive while impaired by a controlled dangerous substance more than once within a five-year period.

A person convicted of driving or attempting to drive any vehicle while impaired by a controlled dangerous substance within five years of a prior conviction for any included offenses must be required by a court to undergo a comprehensive drug abuse assessment. If recommended at the conclusion of the assessment, the offender must participate in a drug program certified by the Department of Health and Mental Hygiene, certified by an adjacent State agency, or approved by the court. The penalties are mandatory and are not subject to suspension or probation.

Additionally, MVA may revoke the license of any person convicted of driving while impaired by a controlled dangerous substance or issue a restricted license prohibiting a licensee from driving with any drug or controlled dangerous substance content in the licensee's blood or with any other restriction that MVA determines necessary to ensure safe driving.

A person convicted of driving or attempting to drive while impaired by a controlled dangerous substance and transporting a minor is subject to maximum penalties of a fine of \$2,000 and/or two years imprisonment for a first offense; \$3,000 and/or three years imprisonment for a second offense; and \$4,000 and/or four years imprisonment for a third or subsequent offense.

**Background:** At a recent meeting of the United Nations Commission on Narcotic Drugs, the Director of the U.S. Office of National Drug Control Policy warned that drugged driving is becoming a growing threat on U.S. roads while the number of those who drink alcohol and drive has declined. The director stated that, on any weekend evening, about one in six drivers on the road will be under the influence of an illicit, prescription, or pharmaceutical drug.

The Department of State Police reports that, in 2011, 1,187 people were arrested for suspicion of driving while impaired by (1) drugs, a combination of drugs and/or alcohol; or (2) a controlled dangerous substance. According to the District Court, a total of 1,935 citations were filed in fiscal 2011 for driving while impaired by a controlled dangerous substance. There were 126 guilty dispositions for this offense during the same period.

**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 Correction (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 \$2,900 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 about \$385 per month. Excluding all medical care, the average variable costs total \$170 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 in 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 have ranged from approximately \$60 to \$160 per inmate in recent years.

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### Additional Information

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Kent and Montgomery counties, Baltimore City, Commission on Criminal Sentencing Policy, Judiciary (Administrative Office of the Courts), Department of State Police, Office of the Public Defender, Maryland Department of Transportation, U.S. Office of National Drug Control Policy, Department of Legislative Services

**Fiscal Note History:** First Reader - February 21, 2012  
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