

Department of Legislative Services
Maryland General Assembly
2012 Session

FISCAL AND POLICY NOTE

Senate Bill 288

(Senator Simonaire)

Judicial Proceedings

Criminal Law - Drug-Free Zones - Public Parks and Recreation Areas

This bill creates enhanced criminal penalties for use or possession with intent to use drug paraphernalia when the offense occurs in a public park or recreation area. The bill also authorizes a State or a local unit of government with jurisdiction over a public park or recreation area to post signs designating a park or recreation area to be a “drug-free zone.” The signs must be designed to provide notice of the bill’s provisions.

Fiscal Summary

State Effect: Minimal increase in general fund revenues from higher fines imposed in District Court cases as a result of the bill. Expenditures are not affected.

Local Effect: Minimal increase in local revenues from higher fines imposed in circuit court cases as a result of the bill. Expenditures are not affected.

Small Business Effect: None.

Analysis

Bill Summary/Current Law: A person is prohibited from using or possessing with the 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 a controlled dangerous substance into the human body.

Exhibit 1 contains a comparison of penalties under current law and penalties under the bill.

Exhibit 1
Comparison of Penalty Provisions Under Current Law and Under SB 288

<u>Violation</u>	<u>Penalty Under SB 288 (Offense Occurs in a Public Park or Recreation Area)</u>	<u>Penalty Under Current Law</u>
First-time Violation	Misdemeanor \$1,000 maximum fine	Misdemeanor \$500 maximum fine
Subsequent Violation	Misdemeanor Up to 2 years imprisonment and/or a maximum fine of \$4,000	Misdemeanor Up to 2 years imprisonment and/or a maximum fine of \$2,000
First-time Violation – Violator has a prior conviction for delivery of drug paraphernalia by an adult to a minor who is at least 3 years younger	Misdemeanor Up to 2 years imprisonment and/or a maximum fine of \$4,000	Misdemeanor Up to 2 years imprisonment and/or a maximum fine of \$2,000
Drug Paraphernalia Related to Marijuana	Misdemeanor See penalties listed above Medical Necessity – \$100 maximum fine (see below)	Misdemeanor See penalties listed above Medical Necessity – \$100 maximum fine (see below)

Under current law and the bill, if the drug paraphernalia is 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.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): City of Bowie; City of Takoma Park; Baltimore, Carroll, Cecil, Harford, Queen Anne's, and St. Mary's counties; Commission on Criminal Sentencing Policy; Department of Natural Resources; Judiciary (Administrative Office of the Courts); Maryland-National Capital Park and Planning Commission; Department of State Police; Office of the Public Defender; Department of Public Safety and Correctional Services; Department of Legislative Services

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ncs/kdm

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