

Department of Legislative Services
Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE

House Bill 586
Judiciary

(Delegate Clippinger, *et al.*)

Courts and Judicial Proceedings - Appeal on the Record - Nonincarcerable
Traffic Violation

This bill alters the standard of review for an appeal to the circuit court in a criminal case in which a defendant has been charged with a nonincarcerable traffic violation from *de novo* to an appeal on the record made in the District Court. The bill applies to a criminal case in which a defendant has been charged with a nonincarcerable violation of the Maryland Vehicle Law or any other traffic law, ordinance, or regulation.

The bill applies prospectively and does not apply or have any effect on or application to any appeal filed before the bill's October 1, 2013 effective date.

Fiscal Summary

State Effect: Potential significant increase in general fund expenditures for the District Court to prepare transcripts for appeals, partially offset by increases in general fund revenues from higher transcript fees. Potential minimal decrease in general fund expenditures for the Department of State Police (DSP) if the bill results in reduced overtime costs.

Local Effect: Potential minimal decrease in local expenditures for circuit courts, State's Attorneys, and local law enforcement. These agencies may also experience operational efficiencies as a result of the bill.

Small Business Effect: None.

Analysis

Current Law/Background: In *de novo* appeals, the court hearing the appeal treats the appeal as if the previous trial never took place and conducts an entirely new trial. Most appeals from District Court decisions in criminal cases are tried *de novo*. Exceptions include (1) criminal actions in which the parties agree to an appeal on the record; (2) an appeal from an order or judgment of direct criminal contempt if the sentence imposed by the District Court was less than 90 days imprisonment; and (3) an appeal by the State from a judgment quashing or dismissing a charging document or granting a motion to dismiss in a criminal case.

The Judiciary advises that there were 3,480 traffic appeals statewide in fiscal 2012. Information is not available on how many of these appeals involved nonincarcerable traffic violations.

State Fiscal Effect: General fund expenditures may increase significantly for the District Court to prepare transcripts for appeals in these cases. These expenditures may be partially offset by an increase in general fund revenues from higher transcript fees.

Currently, the District Court requires individuals requesting transcripts to pay a \$75 deposit. Once the deposit is received, the District Court sends a CD of the court proceedings to the transcripts office via courier. The transcripts office prepares the transcripts and sends them to the appropriate District Court via courier. The court sends one original transcript to the circuit court and one copy to the requestor. Transcripts cost \$3 per page, which is deducted from the deposit. Requestors receive the remaining balance if their transcript costs are less than the \$75 deposit and are billed for remaining balances if their transcript costs exceed the \$75 deposit. The District Court advises that civil cases involving large claims (amount in dispute is greater than \$5,000 or greater than \$2,500 for a case filed before October 2003) generate the most transcripts.

The District Court advises that the bill's requirements increase general fund expenditures by \$721,451 in fiscal 2014 and by \$1,048,494 in fiscal 2018 for 16 additional employees, operating expenses, and supplies to meet the increased demand for transcripts for appeals on the record in nonincarcerable traffic offense cases. According to the court, there were 3,480 traffic appeals statewide in fiscal 2012. It is unclear how many of these cases involved nonincarcerable offenses. Since nonincarcerable traffic appeals are currently *de novo*, the District Court does not prepare transcripts for these appeals.

While the District Court may need additional personnel and may incur additional operating expenses to meet the additional demand for transcripts generated by the bill, it is unclear what the extent of the increase in expenditures will be given that (1) it is likely that the Judiciary will eventually increase transcript fees to recoup additional costs

incurred by the transcripts office and (2) the cost of a transcript and an appeal based on the record may dissuade some individuals from seeking circuit court appeals of nonincarcerable traffic offenses.

Raising Transcript Fees: The current transcript fee of \$3 per page has been in effect for approximately eight years. Fee increases are approved by the Chief Judge and published in the *Maryland Register*. Given the increased costs of operating the transcript office as a result of this bill, it is assumed that the District Court increases transcript fees to recoup some of its additional costs.

Decrease in Appeals: Given the \$75 deposit required to request a transcript and that an appeal in the circuit court under the bill is based on the record created in the District Court (and not an entirely new trial as it is with *de novo* appeals), it is also assumed that the bill results in a decreased demand for circuit court appeals in applicable cases. This is particularly applicable to individuals who face ticket fines that are close in value to the \$75 transcript deposit and do not face additional consequences from the District Court's verdict (assessed license points, etc.).

Department of State Police: Since appeals on the record do not require the presence of witnesses, general fund expenditures may decrease minimally to the extent that DSP pays overtime costs to troopers who need to appear in the circuit courts for *de novo* appeals of nonincarcerable traffic offenses. DSP may also experience operational efficiencies if troopers do not need to be present in court for these appeals and can be assigned to other duties.

Local Expenditures: Circuit court administrative expenditures may decrease minimally due to decreased costs associated with *de novo* appeals and possible decreased dockets for these appeals. Local law enforcement agencies may experience decreased overtime costs if police officers do not need to appear as witnesses in these appeals.

State's Attorneys may experience operational efficiencies if prosecutors no longer have to be present for appeals of nonincarcerable traffic offenses as a result of the bill. While the bill may result in decreased expenditures for State's Attorneys, it is assumed that these savings are shifted to other cases.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts), State's Attorneys' Association, Maryland Department of Transportation, Department of Legislative Services

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