

Department of Legislative Services
Maryland General Assembly
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FISCAL AND POLICY NOTE

House Bill 917 (Delegate M. Washington, *et al.*)
Health and Government Operations and
Environmental Matters

**Real Property - Property Used for Methamphetamine Production - Disclosure and
Quarantine**

This bill authorizes a local law enforcement agency to quarantine a property located in a county or municipal corporation served by the agency if the property has been used for the production of methamphetamine. The bill also authorizes a person with any right, title, or interest in the quarantined property to file a petition in the applicable circuit court to request that the quarantine be lifted. The bill requires a vendor of single-family residential real property that provides a purchaser of the property with a written residential property disclosure statement to include on the statement whether the property has been used for the production of methamphetamine or for any other illegal drug production.

Fiscal Summary

State Effect: The bill's requirements can be handled with existing budgeted resources.

Local Effect: Local government expenditures increase to the extent that local law enforcement agencies quarantine a property that has been used for the production of methamphetamine. No impact on revenues. Any impact on the circuit court due to the filing of petitions to request that a quarantine be lifted is expected to be minimal.

Small Business Effect: Minimal.

Analysis

Bill Summary: If a local law enforcement agency quarantines a property, the bill requires the agency to (1) post conspicuous signs on the property indicating that the property has been quarantined; (2) publish notice of the quarantine in a newspaper of general circulation in each county in which any part of the property is located; and (3) record notice of the quarantine in the land records of each county in which any part of the property is located.

If a person with any right, title, or interest in the property that was quarantined files a petition to request that the quarantine be lifted, the request must be on the grounds that the property was wrongfully quarantined or a local law enforcement agency has refused to lift the quarantine despite the property having been (1) properly cleaned; (2) cleared of all hazardous materials; and (3) certified safe for human use and habitation by a certified industrial hygienist, as defined by the bill. The court, after considering evidence on the petition, may either grant the petition and lift the quarantine or deny the petition and order the quarantine to continue.

The bill authorizes any appropriate person (as noted above) to contract with a certified industrial hygienist to (1) test the property to determine the presence of hazardous material or (2) conduct cleaning and removal of hazardous material from the property. The property must remain quarantined during any such testing or cleaning. After the appropriate testing or cleaning is performed, the certified industrial hygienist may certify that the property is safe for human use and habitation. Once a certification has been issued, a person with a right, title, or interest in the property may record the certification in the appropriate land records office.

The bill prohibits a person from (1) knowingly entering a quarantined property; (2) offering the property to the public for temporary or indefinite habitation; or (3) removing quarantine signs posted by a local law enforcement agency. The prohibition does not apply to a person who is authorized to enter the property by a government agency, as specified, or otherwise carries out the purposes of the bill. A person who commits the above violations is guilty of a misdemeanor and, on conviction, is subject to imprisonment for up to six months and/or a fine of up to \$500.

The bill requires the Secretary of Health and Mental Hygiene to maintain a list of certified industrial hygienists who perform the aforementioned testing and cleaning. The Secretary may adopt regulations necessary to carry out the bill's provisions.

Current Law: Prior to the sale of single-family residential real property improved by four or fewer dwelling units, the vendor must complete and deliver to each purchaser either a written residential property condition disclosure statement or a written residential

property disclaimer statement. Both statements must be on a form provided by the State Real Estate Commission.

The residential property disclaimer statement must disclose any latent defects of which the vendor has actual knowledge that (1) a purchaser would not reasonably be expected to ascertain by a careful visual inspection and (2) would pose a direct threat to the health or safety of a purchaser or occupant. The disclaimer statement must also notify the purchaser that, except for the disclosed latent defects, the vendor makes no representations or warranties as to the condition of the property and its improvements, and that the receipt of the property is “as is,” except as otherwise provided in the sales contract.

If a vendor elects to complete and deliver to each purchaser a written residential property disclosure statement, the vendor’s disclosure form must include a list of defects, including latent defects, or information of which the vendor has actual knowledge regarding specified conditions. The disclosure form must also contain various notices, including those relating to inspections of the property and that the disclosure form is not a warranty as to a condition of the property, or any other condition, of which the vendor has no actual knowledge.

Background: The production of methamphetamine leaves highly toxic residue that causes numerous health problems, including short-term health problems such as migraines or skin irritation or more serious issues such as birth defects and developmental problems.

The U.S. Drug Enforcement Administration (DEA) reports there were 11,210 methamphetamine laboratory incidents, defined by DEA as the discovery of labs or dumpsites or the seizure of chemical, glass, or other equipment, in 2012 in the United States, including 1 in Maryland. DEA maintains a registry of methamphetamine labs and lists 113,464 that were uncovered from 1999 through 2008. The exact number of houses used as methamphetamine labs is unknown.

Local Fiscal Effect: Local government expenditures increase to the extent that local law enforcement agencies quarantine a property that has been used for the production of methamphetamine. The bill authorizes a local government to quarantine a property that has been used to manufacture methamphetamine; however, because the bill’s definition of “quarantine” is unknown, the extent of any increase in expenditures is not quantifiable.

Baltimore City notes that, to quarantine a property, it will remove any hazardous material, an expensive process. Furthermore, both Baltimore City and Kent County advise that a local government may experience significant costs due to exposure to liability. The local government is unable to guard a property to the extent needed to

ensure that no person will enter the property and expose him or herself to the toxins in the property. According to Baltimore City, there was one seizure of materials that could be used in the manufacturing of methamphetamine in 2012.

Washington County estimates that it may incur approximately \$1,000 in annual costs to administer the bill's requirements. Montgomery and Worcester counties note that there would be no fiscal impact from the bill to their governments.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Kent, Montgomery, Washington, and Worcester counties; Baltimore City; Governor's Office of Crime Control and Prevention; Maryland Department of the Environment; Department of Health and Mental Hygiene; Judiciary (Administrative Office of the Courts); *Scientific American*; U.S. Drug Enforcement Administration; Department of Legislative Services

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