

HB 1178

Department of Legislative Services
Maryland General Assembly
2020 Session

FISCAL AND POLICY NOTE

First Reader

Vehicle Laws - Fines - Pilot Project for Income-Based Fines (Fair Fines Act of 2020)

This bill establishes a pilot program under which fines for specified violations of the Maryland Vehicle Law may not be prepaid; instead, the amount of a fine imposed by the court must be calculated in terms of a specified percentage of a base fine established by the District Court. The percentage of the base fine imposed by the court is determined based on the individual's annual income, as specified. An individual may elect to serve community service rather than pay the fine determined by the court. **The bill terminates September 30, 2025.**

Fiscal Summary

State Effect: General fund expenditures increase by more than \$4.0 million beginning in FY 2021. Future years reflect annualization and elimination of one-time costs. The impact on general fund revenues cannot be reliably quantified; however, general fund revenues likely decrease beginning in FY 2021, as discussed below.

(\$ in millions)	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025
GF Revenue	(-)	(-)	(-)	(-)	(-)
GF Expenditure	\$4.0	\$4.6	\$4.7	\$4.7	\$4.9
Net Effect	(\$4.0)	(\$4.6)	(\$4.7)	(\$4.7)	(\$4.9)

Note: () = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: Potential significant operational impact on local law enforcement agencies; local government expenditures may increase due to overtime costs. Revenues are not affected.

Small Business Effect: None.

Analysis

Bill Summary: The bill's provisions apply to a citation issued by a law enforcement officer for a violation of specified offenses generally relating to (1) turning, starting, and use of signals on stopping, turning, and starting; (2) required stops; and (3) speed restrictions.

For a violation of specified offenses, the District Court must establish a base fine in accordance with the existing maximum fine of \$500 that generally applies to violations of the Maryland Vehicle Law.

A fine imposed by the court must be calculated in terms of a specified percentage of the base fine. The percentage of the base fine is determined based on the individual's annual adjusted gross income as a percentage of the federal poverty level. An individual's adjusted gross income is as determined under the bill; it is not defined to refer to adjusted gross income for federal or State income tax purposes.

Fines imposed under the bill range from 0% of the base fine, for an individual with an adjusted gross income up to 100% of the federal poverty level, to 300% of the base fine, for an individual with an adjusted gross income exceeding 1,600% of the federal poverty level. In any case, a fine imposed under the bill may not exceed the existing maximum \$500 that generally applies to violations of the Maryland Vehicle Law.

In determining the adjusted gross income of a defendant, a court may consider income from any legal source, including employment, public benefits, investments, rental property, and income from intellectual property. However, a court may not consider pension or other retirement income. In calculating the adjusted gross income of a defendant, a court must (1) deduct 33% from the individual's income, if the individual has taxes withheld from his or her income and (2) deduct up to 15% to account for necessary expenses, including the costs of support care for dependents, medical expenses, educational costs, and the payment of child support. An individual may establish the individual's income through records or testimony.

An individual may elect to serve community service rather than pay the fine determined by the court. The number of community service hours imposed by a court must be calculated by determining the number of hours that an individual earning the minimum wage rate for the jurisdiction would be required to work to pay the fine that would otherwise be due. However, community service imposed under the bill may not be fewer than four hours.

An individual who experiences an unexpected hardship following the imposition of a fine under the bill may petition the court for a reduction in the fine or the imposition of community service instead of payment of the fine. For an individual who has entered into

an installment plan for the payment of one or more fines imposed by the court, as provided under existing provisions, the hours of community service must be calculated based on the remaining, unpaid amount of the fine.

Current Law: Except as otherwise specified, a person convicted of a misdemeanor for a violation of a provision of the Maryland Vehicle Law is subject to a maximum fine of \$500. The prepayment penalty established by the District Court for most of the offenses specified under the bill is \$90 or \$130 for a violation that contributes to an accident. Prepayment penalties for exceeding maximum speed limits range from \$80 to \$530 based on miles per hour in excess of the maximum speed limit.

Nonpayment of Fines

If a person fined under the Maryland Vehicle Law (or under a federal traffic law or regulation for a violation occurring in the State) does not pay a fine in accordance with the court's directive, the court may certify the failure to pay to the Motor Vehicle Administration (MVA). When MVA receives the certification, it may suspend the driving privileges or license of the person until the fine has been paid (but only after giving the person 10 days advance written notice).

Installment Payment of Fines

The District Court or a circuit court may authorize an individual installment plan agreement for a defendant whose driver's license or driving privilege may be (or is) suspended for failure to pay a fine for one or more traffic offenses, including one or more citations for a violation of specified parking ordinances. A defendant who is sentenced to pay one or more fines that total at least \$300 and certifies inability to pay the fine (or fines) may apply to the clerk of the court to make installment payments. An installment plan agreement must require that the defendant make installment payments of 10% per month on the total amount of the fine (or fines) covered by the agreement, specify the offense and citations to which the agreement applies, and state whether the defendant's driver's license or driving privileges are currently suspended for failure to pay the fine or fines to which the agreement applies.

State Revenues: The bill prohibits the prepayment of fines for violations of specified traffic offenses and requires the court to calculate fines for violations of these offenses in accordance with a specified formula based on an individual's income. The District Court advises that, in fiscal 2019, there were 203,526 citations issued for offenses specified under the bill, of which 105,161 – approximately 52% – were prepaid.

The bill's impact on general fund revenues from fines collected by the District Court for offenses specified under the bill cannot be reliably quantified, as it depends on the base

fine established by the District Court, the income levels of defendants, the actual amount of the fines imposed under the bill, and fine revenues currently collected for these offenses, for which data is not readily available. Nonetheless, a discussion of the possible revenue effects is below.

To the extent that individuals who would prepay fines for specified violations in the absence of the bill are subject to the imposition of higher fines under the bill, general fund revenues may increase. However, the bill requires the calculation of fines based on an individual defendant's adjusted gross income – not household income. Accordingly, it is assumed that fines may be calculated in different manners for individual members of the same household. Further, it is assumed many individuals who would prepay fines in the absence of the bill will be subject to lower or no fines under the bill, based on the manner in which the fines must be calculated. To the extent that these individuals pay lower or no fines under the bill, general fund revenues may decrease.

Additionally, individuals who would prepay fines in the absence of the bill may be more likely to contest violations under the bill, as these individuals must appear in court. To the extent that fines are not imposed for individuals who would prepay fines in the absence of the bill, either because violations are successfully contested or because the law enforcement officers who issued the citations do not appear in court, general fund revenues decrease.

Finally, the bill allows an individual to elect to serve community service rather than pay the fine, which also decreases general fund revenues.

State Expenditures: As noted above, the bill prohibits the prepayment of fines for violations of specified traffic offenses. Accordingly, it is assumed that individuals must appear in court for violations of these offenses, particularly since the court must determine the amount of their fine based on their income, either through records or testimony. Thus, the bill significantly increases courtroom docket loads for the District Court. It is estimated that courtroom appearances are required for an additional 105,000 traffic-related cases annually as a result of the bill, based on the existing rate of prepayment for offenses specified under the bill. Moreover, the workload associated with the remaining cases (those that are currently contested) also increases under the bill.

The Judiciary advises, and the Department of Legislative Services concurs, that additional District Court personnel are needed in order to handle the significant increase in workload under the bill. The Judiciary further advises that significant programming changes are necessary to implement the bill's requirements; one-time programming-related costs are estimated at \$230,000. In addition, the Judiciary must update and issue new traffic citation books for use by law enforcement officers at an estimated cost of \$30,700.

Accordingly, general fund expenditures for the Judiciary increase by \$4,047,888 in fiscal 2021, which accounts for the bill's October 1, 2020 effective date. It reflects the cost of hiring 17 District Court clerks, 8 District Court judges, 8 courtroom clerks, and 16 bailiffs. It includes salaries, fringe benefits, one-time start-up costs, programming-related costs, costs for updated traffic citation books, and ongoing operating expenses.

Positions	49
Salaries and Fringe Benefits	\$3,524,242
Updated Traffic Citation Books	30,700
Programming-related Costs	230,000
Other Operating Expenses	<u>262,946</u>
Total FY 2021 State Expenditures	\$4,047,888

Future year expenditures reflect full salaries, annual increases (as appropriate), employee turnover, and ongoing operating expenses.

This estimate assumes that, given the five-year duration of the pilot program, District Court personnel needs as a result of the bill must be met with regular, permanent staff positions; upon termination of the program in fiscal 2026, the additional staff can otherwise support the staffing needs of the Judiciary.

This estimate does not account for a potentially significant increase in overtime costs for the Department of State Police to the extent that State police officers must appear in court more frequently as a result of the bill.

Local Expenditures: The bill may significantly affect the operation of local law enforcement agencies if local police officers have to make additional court appearances under the bill. Overtime costs for local law enforcement agencies may increase to accommodate these appearances.

Additional Comments: As previously noted, the formula for fines in the bill is based on an *individual's* income. The federal poverty guidelines vary by size of *household*. The 2020 federal poverty guidelines are \$12,760 for a single-person household and increase by \$4,480 for each additional person in the household.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Comptroller's Office; Judiciary (Administrative Office of the Courts); Department of State Police; Maryland Department of Transportation; U.S. Department of Health and Human Services; Department of Legislative Services

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