

Department of Legislative Services  
Maryland General Assembly  
2021 Session

FISCAL AND POLICY NOTE  
First Reader

House Bill 932  
Judiciary

(Delegate Arikan)

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Drugged Driving - Controlled Dangerous Substance Testing - Authorized Police  
Officers

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This bill authorizes a police officer who has successfully completed specified advanced roadside impaired driving enforcement (ARIDE) training to request, require, or direct a person to take a test for drug or controlled dangerous substance (CDS) content relating to an alcohol- and/or drug-related driving offense, as specified. In addition, the bill repeals the authorization for a police officer who is a trainee of or a direct or indirect participant in a specified drug recognition expert (DRE) training program to request, require, or direct a test; however, it retains the authorization for a police officer who has been trained as a DRE to do so.

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Fiscal Summary

**State Effect:** General fund expenditures increase significantly beginning in FY 2022, as discussed below. Revenues are not directly affected.

**Local Effect:** The bill is not expected to materially affect local law enforcement operations or finances.

**Small Business Effect:** None.

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Analysis

**Bill Summary:** A test may be requested, required, or directed by an officer who is a member of a specified law enforcement agency and has been certified by the head of the agency as having successfully completed ARIDE training in a program that is (1) administered in conjunction with the National Highway Traffic Safety Administration

(NHTSA) or (2) that contains requirements for successful completion of the training program that are substantially equivalent to the requirements of the ARIDE training developed by NHTSA.

**Current Law:** A test for drug or CDS content relating to an alcohol- and/or drug-related driving offense may not be requested, required, or directed by a police officer unless the law enforcement agency of which the officer is a member has the capacity to have such tests conducted. Additionally, a police officer may not request, require, or direct a test for drug or CDS content in such circumstances unless the officer is a trainee, has been trained, or is participating directly or indirectly in a program of training that is (1) designed to train and certify police officers as DREs and (2) conducted by a law enforcement agency of the State or other specified law enforcement agency – either in conjunction with NHTSA or as a program of training with requirements that are substantially equivalent to the requirements of the Drug Recognition Training Program developed by NHTSA.

A police officer who is a trainee or participant in a DRE program must be a member of and designated as a trainee or participant by the head of one of a list of specified law enforcement agencies. Similar certification requirements apply to a police officer who has been trained as a DRE.

**State Expenditures:** The bill expands the authorization to request, require, or direct a test to include specified law enforcement officers who are not trained DREs but who have completed ARIDE training. ARIDE, developed by NHTSA, is designed to train law enforcement officers to observe, identify, and articulate the signs of impairment related to drugs and/or alcohol. The course is not a substitute for DRE training and does not qualify or certify an individual as a DRE. According to the Department of State Police (DSP), 1,121 evaluations were conducted by Maryland DREs in 2020. DSP further advises that there are currently 167 DREs in the Maryland DRE program. In addition, DSP advises that, since 2015, 1,635 officers have been trained in ARIDE.

The bill is anticipated to result in an increase in the number of tests for drug or CDS content requested. However, DSP advises that the Toxicology Unit is currently operating at maximum capacity and cannot absorb additional blood drug casework. In November 2020, in response to the 2020 *Joint Chairmen's Report*, DSP issued a [report](#) on the operations of the department's Toxicology Unit. According to the report, since 2017, toxicology case submissions have increased while the unit's testing output has decreased due to staffing turnover, resulting in a backlog of cases. DSP advises that, between 2017 and 2019, blood drug case submissions increased by 70%. According to DSP, the significant increase is believed to be partially due to a statewide increase in the number of officers trained in ARIDE, who are better able to identify drug-impaired drivers and are more likely to request DRE evaluations.

To address the existing backlog, the report recommends the expansion of Toxicology Unit operations to the Hagerstown and Berlin facilities, the purchase of additional equipment and technology, and additional staffing. DSP is currently outsourcing a portion of its blood drug cases. The current vendor contract expires in May 2021; DSP advises that it is in the process of evaluating vendors for the next contract, which will be in effect for five years.

To the extent that the bill results in a significant increase in blood drug cases, DSP advises that additional resources, including equipment and personnel, are needed. However, it is assumed that, in the short term, additional blood drug testing that may result from the bill would be outsourced under the anticipated vendor contract. As noted above, DSP is currently outsourcing the testing of a portion of its blood drug cases at a cost of about \$208 per test kit. This per-kit cost excludes additional costs related to testimony and travel time, which are currently charged at a rate of \$150 per hour. While the current contract expires in May, DSP is evaluating vendors for the next contract. *Under one illustrative scenario*, based on the current contractual costs, if the bill's changes result in an additional 200 tests per year, general fund expenditures for DSP increase by at least \$131,600 annually in the short term, assuming two hours of testimony and one hour of travel time per case.

At such time that DSP expands its capacity to conduct in-house testing of blood drug cases to meet its existing caseload, and otherwise reduces its reliance on outsourcing, additional personnel and/or equipment may be needed to the extent that the bill results in a significant increase in blood drug cases. The timing of such a transition is uncertain. *For illustrative purposes*, one-time costs associated with purchasing necessary equipment could total as much as \$500,000 or more, and costs associated with hiring a forensic chemist could total upward of \$90,000 annually.

The bill may result in minimal savings in overtime expenses to the extent that DREs no longer need to be requested to evaluate whether an individual should be requested to take a test for drug or CDS content. Any such impact, however, cannot be reliably estimated.

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### **Additional Information**

**Prior Introductions:** HB 1334 of 2020 received a hearing in the House Judiciary Committee, but no further action was taken. Its cross file, SB 497, passed the Senate and was referred to the House Judiciary Committee, but no further action was taken.

**Designated Cross File:** None.

**Information Source(s):** Howard, Montgomery, and Prince George's counties; City of Bowie; University System of Maryland; Morgan State University; Department of General Services; Department of Natural Resources; Department of State Police; Maryland Department of Transportation; Department of Legislative Services

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