

Department of Legislative Services  
Maryland General Assembly  
2023 Session

FISCAL AND POLICY NOTE  
First Reader

Senate Bill 570

(Senator Folden, *et al.*)

Judicial Proceedings

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Criminal Law – Offenses Related to Methamphetamine – Penalty

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This bill increases the penalties for distribution of methamphetamine and distribution-related crimes involving methamphetamine by adding methamphetamine to the list of specified drugs subject to increased penalties under § 5-609 of the Criminal Law Article.

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Fiscal Summary

**State Effect:** Potential minimal increase in general fund expenditures due to the bill's penalty provisions, as discussed below. Revenues are not affected.

**Local Effect:** Potential minimal increase in local revenues due to bill's penalty provisions, as discussed below. Expenditures are not affected.

**Small Business Effect:** None.

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Analysis

**Current Law:** Controlled dangerous substances (CDS) are listed on one of five schedules (Schedules I through V) set forth in statute depending on their potential for abuse and acceptance for medical use. Statute authorizes increased penalties for the distribution of Schedule I or II narcotic drugs and specified substances. Because methamphetamine is not included in the list of specified drugs subject to increased penalties, it is subject to the general maximum penalties for distribution of CDS and related offenses.

Under Title 5, Subtitle 6 of the Criminal Law Article, a person may not:

- distribute, dispense, or possess with the intent to distribute a CDS;
- manufacture a CDS or manufacture, distribute, or possess a machine, equipment, or device that is adapted to produce a CDS with the intent to use it to produce, sell, or dispense a CDS;
- create, distribute, or possess with the intent to distribute a counterfeit substance;
- manufacture, distribute, or possess equipment designed to render a counterfeit substance;
- keep a common nuisance (any place resorted to for the purpose of illegally administering CDS or where such substances or controlled paraphernalia are illegally manufactured, distributed, dispensed, stored, or concealed); or
- pass, issue, make, or possess a false, counterfeit, or altered prescription for a CDS with the intent to distribute the CDS.

**Exhibit 1** shows the applicable sentences for these crimes.

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**Exhibit 1**  
**Penalties for Distribution of Controlled Dangerous Substances and Related Offenses**

<u>Offense</u>	<u>Current Penalty<sup>1, 2</sup></u>
<b>CDS (Other Than Schedule I or II Narcotic Drugs and Other Specified CDS)<sup>3</sup></b>	
First-time Offender	Maximum penalty of 5 years imprisonment and/or \$15,000 fine
Repeat Offender	Maximum penalty of 5 years imprisonment and/or \$15,000 fine
<b>CDS (Schedule I or II Narcotic Drug and Specified Drugs)<sup>4</sup></b>	
First-time Offender	Maximum penalty of 20 years imprisonment and/or \$15,000 fine
Second-time Offender	Maximum penalty of 20 years imprisonment and/or \$15,000 fine
Third-time Offender	Maximum penalty of 25 years imprisonment and/or a \$25,000 fine (parole eligibility at 50% of sentence)
Fourth-time Offender	Maximum penalty of 40 years imprisonment and/or a \$25,000 fine (parole eligibility at 50% of sentence)

CDS: controlled dangerous substance

<sup>1</sup> Repeat offenders are subject to twice the term of imprisonment and/or fines that are otherwise authorized. Under Chapter 515 of 2016, effective October 1, 2017, this authorization is made applicable only when the person has also been previously convicted of a crime of violence.

<sup>2</sup> Chapter 569 of 2017 prohibits a person from knowingly distributing or possessing with the intent to distribute (1) a mixture of CDS that contains heroin and a detectable amount of fentanyl or any analogue of fentanyl or (2) fentanyl or any analogue of fentanyl. In addition to any other penalty imposed, a person is subject to imprisonment for up to 10 years. A sentence imposed for a violation of this prohibition must be served consecutively to any other sentence imposed.

<sup>3</sup> *e.g.*, cannabis.

<sup>4</sup> *e.g.*, cocaine and heroin.

Source: Department of Legislative Services

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**State Expenditures:** General fund expenditures may increase minimally as a result of the bill's incarceration penalty due to people being committed to State correctional facilities  
SB 570/ Page 3

for longer periods of time. The number of people sentenced under the bill is expected to be minimal. This estimate assumes that the bill does not shift individuals from local detention facilities to State correctional facilities.

Persons serving a sentence longer than 18 months are incarcerated in State correctional facilities. Currently, the average total cost per inmate, including overhead, is estimated at \$4,970 per month. Persons serving a sentence of one year or less in a jurisdiction other than Baltimore City are sentenced to local detention facilities. For persons sentenced to a term of between 12 and 18 months, the sentencing judge has the discretion to order that the sentence be served at a local facility or a State correctional facility. The State provides assistance to the counties for locally sentenced inmates and for (1) inmates who are sentenced to and awaiting transfer to the State correctional system; (2) sentenced inmates confined in a local detention center between 12 and 18 months; and (3) inmates who have been sentenced to the custody of the State but are confined in or who receive reentry or other prerelease programming and services from a local facility.

The State does not pay for pretrial detention time in a local correctional facility. Persons sentenced in Baltimore City are generally incarcerated in State correctional facilities. The Baltimore Pretrial Complex, a State-operated facility, is used primarily for pretrial detentions.

**Local Revenues:** Revenues may increase minimally as a result of the bill's monetary penalty provisions from cases heard in the circuit courts.

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### **Additional Information**

**Prior Introductions:** Similar legislation has been introduced within the last three years. See SB 218 and HB 705 of 2020.

**Designated Cross File:** None.

**Information Source(s):** Montgomery County; Maryland State Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Office of the Public Defender; Maryland State's Attorneys' Association; Maryland Department of Health; Department of Public Safety and Correctional Services; Department of Legislative Services

**Fiscal Note History:** First Reader - March 3, 2023  
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