

**Department of Legislative Services**  
Maryland General Assembly  
2025 Session

**FISCAL AND POLICY NOTE**  
**First Reader**

House Bill 518  
Judiciary

(Delegate Grammer)

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**General Assembly - Criminal Offenses - Mens Rea Requirement**

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This proposed constitutional amendment, if approved by the voters at the next general election, with specified exceptions, requires each bill passed by the General Assembly that establishes a criminal offense to include an explicit *mens rea* requirement for each offense established. Contingent on the passage of the proposed amendment, and its ratification by the voters, the bill requires that a fiscal and policy note prepared by the Department of Legislative Services (DLS) for a bill that establishes a criminal offense contain (1) a statement that under Article III, § 62 of the Maryland Constitution, each bill passed by the General Assembly establishing a criminal offense must provide an explicit *mens rea* requirement for the offense established unless the bill plainly indicates a purpose to impose strict liability for the conduct described in the offense and (2) an assessment of whether the criminal offense established in the bill includes an explicit *mens rea* requirement. In addition, the bill requires DLS to report, by December 1 of each year, to the Senate Judicial Proceedings Committee and the House Judiciary Committee, on criminal laws in the State that do not specify an explicit *mens rea* requirement for the offense. **The bill's reporting requirement for DLS takes effect June 1, 2025.**

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**Fiscal Summary**

**State Effect:** The bill's requirements are not anticipated to materially affect State finances.

**Local Effect:** None.

**Small Business Effect:** None.

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## Analysis

**Bill Summary:** The explicit *mens rea* requirement for each offense under the proposed constitutional amendment language (1) is not required if the language establishing a criminal offense in a bill passed by the General Assembly plainly indicates a purpose to impose strict liability for the prohibited conduct described in the offense and (2) does not apply to the amendment of a criminal offense that existed on or before January 1, 2027.

**Current Law:** There is no requirement in the State Constitution that each criminal offense include an explicit *mens rea* requirement for each offense established. In addition, there is no requirement in State law for a fiscal and policy note to include a statement and an assessment regarding whether a criminal offense established in a bill includes an explicit *mens rea* requirement.

DLS must prepare a fiscal and policy note for each bill considered by the General Assembly. Generally, a standing committee of the General Assembly may not vote on a bill unless the bill is accompanied by a fiscal and policy note.

A fiscal and policy note prepared by DLS must contain:

- an estimate of the fiscal impact of the bill on the revenues and expenditures of the State government and local governments for five years beginning with the year the bill takes effect. If the bill's full fiscal impact is not expected to occur during that time, the analysis must include an estimate for each year until and including the first year the impact occurs;
- for a bill that requires a mandated appropriation in the State budget, a statement to that effect and an estimate of the fiscal impact of the mandated appropriation;
- for a bill that imposes a mandate on a unit of local government, a statement to that effect and an estimate of the fiscal impact of the local mandate, including the effect on local property tax rates;
- an analysis of the bill's economic impact on small businesses; and
- a list of sources of information used in preparing the fiscal impact estimates.

DLS must prepare a revised fiscal and policy note as soon as possible following the adoption of an amendment that changes the fiscal impact of a bill. A revised fiscal and policy note is typically prepared when a bill passes third reading in the house of origin and crosses over for consideration by the second house.

Upon request by DLS, a unit of State or local government must promptly provide any information requested by DLS for preparing a fiscal and policy note. Statute also specifies that, in order to facilitate the preparation of the analyses of the fiscal, legal, and policy

impact of proposed legislation, a unit of State government must respond to a request by the Office of Policy Analysis (OPA) within three business days, unless that requirement is waived. In practice, OPA typically sets a deadline for each request that is five business days after the request is sent, although this can vary depending on when the legislation is scheduled for a hearing.

*Mens rea* is not specifically defined in State law, but is a Latin term that means “guilty mind” and refers to the legal principle of criminal intent to do the prohibited act.

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### **Additional Information**

**Recent Prior Introductions:** Similar legislation has not been introduced within the last three years.

**Designated Cross File:** None.

**Information Source(s):** Department of Legislative Services

**Fiscal Note History:** First Reader - February 6, 2025  
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