

Department of Legislative Services
 Maryland General Assembly
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FISCAL AND POLICY NOTE
 First Reader

House Bill 310
 Judiciary

(Delegate Valentino-Smith, *et al.*)

Task Force to Study Impaired Driving and New Technologies

This bill establishes a Task Force to Study Impaired Driving and New Technologies. The Governor’s Office of Crime Control and Prevention (GOCCP) must provide staff for the task force. At the request of the task force chair, other units of State government must provide assistance to the task force, as specified. A member of the task force may not receive compensation but is entitled to reimbursement for expenses under the standard State travel regulations, as provided in the State budget. The task force must report its findings and recommendations to the Governor and the General Assembly by December 1, 2020. **The bill takes effect July 1, 2019, and terminates June 30, 2021.**

Fiscal Summary

State Effect: General fund expenditures increase by *at least* \$26,400 in FY 2020. Future year expenditures reflect the elimination of the contractual position and subsequent termination of the task force in FY 2022. Revenues are not affected.

(in dollars)	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	26,400	13,500	0	0	0
Net Effect	(\$26,400)	(\$13,500)	\$0	\$0	\$0

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

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: The task force must:

- review achievements in combating driving while under the influence of drugs and alcohol over the past 20 years;
- identify and assess current efforts in Maryland and other states to address driving while under the influence of drugs and alcohol;
- identify national best practices;
- determine if there are gaps between national best practices and State efforts;
- study and review new technologies, including specified technologies;
- identify the most effective and practical technologies to implement in the State;
- recommend technologies that should be implemented in the State;
- recommend necessary actions to implement national best practices;
- recommend new State initiatives to address all impaired-driving populations;
- recommend actions to sustain and enhance public awareness of drunk driving; and
- recommend strategies to improve coordination of management, funding, and resources at the State and local levels.

Current Law/Background:

Alcohol- and/or Drug-related Driving Offenses

A person may not drive or attempt to drive any vehicle while:

- under the influence of alcohol or under the influence of alcohol *per se*;
- impaired by alcohol;
- impaired by a drug, any combination of drugs, or any combination of drugs and alcohol; or
- impaired by a controlled dangerous substance (CDS).

With a conviction for an alcohol- and/or drug-related driving offense under the Transportation Article, a violator is subject to a range of penalties involving fines and imprisonment, as well as suspension or revocation of the driver's license by the Motor Vehicle Administration. A person convicted of driving under the influence of alcohol, under the influence of alcohol *per se*, or while impaired by a CDS is subject to fines ranging from \$1,000 to \$3,000 and/or a maximum imprisonment term of one to three years – depending on whether it is a first or subsequent offense. A repeat conviction or convictions within five years requires a mandatory minimum penalty of imprisonment

from 5 to 10 days or community service from 30 to 60 days, as specified, as well as a mandatory alcohol or drug abuse assessment.

If an offender is transporting a minor at the time of the alcohol- and/or drug-related driving offense, fines and sanctions increase beyond those already specified for lesser included offenses.

Exhibit 1 shows the number of violations brought in the District Court and circuit courts for specified offenses in fiscal 2018. Additionally, in fiscal 2018, there were 5,130 guilty dispositions for alcohol- and/or drug-related driving offenses in the District Court. The Maryland State Commission on Criminal Sentencing Policy reports that there were 6 individuals sentenced for a third or subsequent offense in circuit courts for alcohol- and/or drug-related driving offenses in fiscal 2018.

Exhibit 1
Violations for Specified Offenses in the District Court and Circuit Courts
Fiscal 2018

<u>Offense</u>	<u>District Court</u>	<u>Circuit Court</u>
Driving Under the Influence of Alcohol	18,521	2,310
Driving Under the Influence of Alcohol <i>Per Se</i>	3,376	816
Driving Under the Influence of Alcohol/Transporting Minor	77	27
Driving While Impaired by Alcohol	10,384	2,277
Driving While Impaired by Alcohol/Transporting Minor	239	49
Driving While Impaired by Drugs or Drugs and Alcohol	4,501	661
Driving While Impaired by Drugs or Drugs and Alcohol/Transporting Minor	20	12
Driving While Impaired by a CDS	2,341	416
Driving While Impaired by a CDS/Transporting Minor	40	19
Homicide by Vehicle/Vessel – Under the Influence of Alcohol or Under the Influence <i>Per Se</i>	1	26
Homicide by Vehicle/Vessel – Impaired (by Alcohol, Drugs, or a CDS)	3	19
Life-threatening Injury by Vehicle/Vessel (Under the Influence of Alcohol, Under the Influence <i>Per Se</i> , or Impaired by Alcohol, Drugs, or a CDS)	23	20

CDS: controlled dangerous substance

Note: Circuit court violations include jury trials and appeals from cases that originated in the District Court. Therefore, there may be some overlap between the number of District Court and circuit court violations.

Source: Judiciary (Administrative Office of the Courts)

Examples of Emerging Technology

According to media reports, Fairfax County, Virginia is one jurisdiction that is using “alcohol-sensing flashlights” to identify drunk drivers. The flashlight has a built-in sensor to detect alcohol in a drink or on a person’s breath. Additionally, according to the highway safety organization “We Save Lives,” approximately 14 states permit oral fluid tests as an alternative to blood testing. An oral fluid test is a saliva screening test that may detect the presence of certain drugs (depending on the device used), such as marijuana, cocaine, and opiates.

The federal Driver Alcohol Detection System for Safety (DADSS) Program is a federally funded, collaborative research program between the National Highway and Traffic Safety Administration (NHTSA) and the Automotive Coalition for Traffic Safety (ACTS). NHTSA and ACTS entered into a cooperative agreement in 2008 to research and test technologies to reduce drunk driving nationally. The collaboration identified two potential systems for vehicle integration: (1) a breath-based system that measures the alcohol level in a driver’s naturally exhaled breath unobtrusively and that can take instantaneous readings as the driver breathes normally, while also distinguishing between the driver’s breath and passenger’s; or (2) a touch-based system that measures blood alcohol levels under the skin’s surface through an infrared light that is integrated into existing vehicle controls, such as the start button and steering wheel, and that can take multiple accurate readings in less than a second.

NHTSA and ACTS extended their agreement in 2013; however, the program is still in the research phase. The DADSS website states that (as of October 2018) pilot manufacturing, vehicle installations, and field operation tests were scheduled to begin taking place in late 2018. Manufacturers will have the choice as to whether to install the system, and customers will be able to choose whether to purchase the system as a safety option (similar to automatic braking, lane departure warnings, etc.). The system will be calibrated at 0.08 blood alcohol concentration, as this was the performance specification for the program’s funding and corresponds to the standard offense for drunk driving in all states.

State Expenditures: General fund expenditures for GOCCP increase by *at least* \$26,442 in fiscal 2020, which assumes a 90-day start-up delay (since the task force continues the following year). If the task force is appointed and begins meeting over the summer, contractual support may be needed sooner and expenditures increase slightly. Accordingly, this estimate reflects the cost of hiring one half-time (50%) contractual employee to staff the task force. It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Contractual Position	0.5
Salary and Fringe Benefits	\$21,317
One-time Start-up costs	4,890
Operating Expenses	<u>235</u>
Total FY 2020 State Expenditures	\$26,442

This estimate does not include any health insurance costs that could be incurred for specified contractual employees under the State’s implementation of the federal Patient Protection and Affordable Care Act.

Future years reflect elimination of the contractual position on December 31, 2020, after the report is due, and subsequent termination of the task force.

Any expense reimbursements for task force members are assumed to be minimal and absorbable within existing budgeted resources. Agencies that are requested by GOCCP to provide facilities, data, and other assistance to the task force can provide such assistance within their existing resources.

Additional Information

Prior Introductions: HB 1204 of 2018 received an unfavorable report from the House Judiciary Committee.

Cross File: None.

Information Source(s): Governor’s Office of Crime Control and Prevention; Maryland Institute for Emergency Medical Services Systems; Judiciary (Administrative Office of the Courts); Office of the Public Defender; Maryland State’s Attorneys’ Association; Department of Public Safety and Correctional Services; Department of State Police; Maryland Department of Transportation; U.S. Department of Transportation; www.dadss.org; WTOP; We Save Lives; Department of Legislative Services

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