

Department of Legislative Services
Maryland General Assembly
2021 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 926
Judiciary

(Delegate Arikan)

Criminal Law - Homicide by Vehicle or Vessel - Penalties (Josette's Law)

This bill increases the maximum incarceration penalties for the offenses of manslaughter by vehicle or vessel (gross negligence) and homicide by motor vehicle or vessel while under the influence of alcohol or under the influence of alcohol *per se*. The maximum incarceration penalty for manslaughter by vehicle or vessel is increased from 10 to 20 years for a first offense and from 15 to 30 years for a subsequent offense. For homicide by motor vehicle or vessel while under the influence of alcohol or under the influence of alcohol *per se*, the maximum incarceration penalty is increased from 5 to 10 years for a first offense and from 10 to 15 years for a subsequent offense.

Fiscal Summary

State Effect: Minimal increase in general fund expenditures, as discussed below. Revenues are not affected.

Local Effect: The bill is not expected to materially affect local finances or operations, as discussed below.

Small Business Effect: None.

Analysis

Bill Summary/Current Law: Exhibit 1 contains (1) the current maximum incarceration penalties for manslaughter by vehicle or vessel (gross negligence) and homicide by motor vehicle or vessel while under the influence of alcohol or under the influence of alcohol *per se*; (2) the increased maximum incarceration penalties established by the bill for these offenses; and (3) fiscal 2020 sentencing and incarceration data for these offenses.

Exhibit 1
Maximum Incarceration Penalties (Under Current Law and Under the Bill) and Fiscal 2020 Sentencing and Incarceration Data for Specified Manslaughter and Homicide by Vehicle or Vessel Offenses

<u>Offense</u>		<u>Maximum Incarceration Penalties</u>		<u>FY 2020 Sentencing and Incarceration Data</u>		
		<u>Under Current Law</u>	<u>Under The Bill</u>	<u>Persons Sentenced</u>	<u>Counts</u>	<u>Average Length of Incarceration</u>
Manslaughter by vehicle or vessel (gross negligence)	First offense	10 years	20 years	21	26	5.1 years
	Subsequent offense	15 years	30 years	1	1	15 years
Homicide by motor vehicle or vessel while under the influence or alcohol or under the influence of alcohol <i>per se</i>	First offense	5 years	10 years	6	6	1.6 years
	Subsequent offense	10 years	15 years	1	1	3 years

Notes: “Average Length of Incarceration” refers to the average nonsuspended sentence. Fiscal 2020 data may have been affected by the COVID-19 pandemic.

Source: Maryland Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Department of Legislative Services

Under current law, manslaughter by vehicle or vessel and homicide by motor vehicle or vessel while under the influence of alcohol or under the influence of alcohol *per se* are both felonies. In addition to the maximum incarceration penalties displayed in Exhibit 1, persons convicted of these offenses are subject to a maximum fine of \$5,000 for a first offense or \$10,000 for a subsequent offense.

State Expenditures: To the extent that judges impose longer sentences under the bill's increased maximum incarceration penalties for the specified offenses, general fund expenditures increase minimally due to people being committed to State correctional facilities for longer periods of time. The number of people convicted of these offenses and subject to the increased incarceration penalties under the bill is expected to be minimal. Further, any impact depends on the extent to which sentencing practices change as a result of the bill.

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 \$3,900 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 Fiscal Effect: Local government expenditures may decrease minimally to the extent that people are committed to State facilities, instead of local facilities, as a result of longer sentences imposed under the bill. Counties pay the full cost of incarceration for people in their facilities for the first 12 months of the sentence. *Per diem* operating costs of local detention facilities have ranged from approximately \$40 to \$170 per inmate in recent years.

However, any impact on local government expenditures depends on the extent to which sentencing practices change as a result of the bill – and the extent to which people convicted of and sentenced for offenses specified in the bill would otherwise serve sentences in local facilities. Given the current maximum incarceration penalties for these offenses and available sentencing data, it is assumed that people convicted of these offenses are

generally already subject to commitment in State facilities. Thus, the bill is not expected to materially affect local government expenditures.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Maryland State Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Department of Public Safety and Correctional Services; Department of Legislative Services

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rh/aad

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