

Department of Legislative Services
 Maryland General Assembly
 2025 Session

FISCAL AND POLICY NOTE
 Third Reader - Revised

Senate Bill 710

(Senator King, *et al.*)

Judicial Proceedings

Judiciary

Criminal Law - Motor Vehicle - Criminal Negligence (Sergeant Patrick Keep Act)

This bill establishes that a person may not drive, operate, or control a motor vehicle in a *criminally negligent* manner. (Under existing law, a person may only face prosecution for driving in a *criminally negligent* manner if the person’s actions cause the death of or a life-threatening injury to another person.) A violator is guilty of a misdemeanor and on conviction is subject to imprisonment for up to six months and/or a maximum fine of \$5,000. The prohibition established under the bill does not include driving, operating, or controlling a motor vehicle in a negligent manner (as defined in § 21-901.1 of the Transportation Article – reckless and negligent driving).

Fiscal Summary

State Effect: Under one set of assumptions, general fund expenditures for the Office of the Public Defender (OPD) increase by *at least* \$382,900 in FY 2026; future years reflect annualization, inflation, and ongoing operating costs. Potential minimal increase in general fund expenditures for the Department of Public Safety and Correctional Services (DPSCS). Minimal increase in general fund revenues from fines imposed in the District Court.

(in dollars)	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	382,900	458,900	479,200	500,500	521,900
Net Effect	(\$382,900)	(\$458,900)	(\$479,200)	(\$500,500)	(\$521,900)

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

Local Effect: Minimal increase in local revenues and expenditures due to the bill’s penalty provisions.

Small Business Effect: None.

Analysis

Bill Summary: A person acts in a *criminally negligent* manner when (1) the person should be aware, but fails to perceive, that their conduct creates a substantial and unjustifiable risk to the safety of persons or property and (2) their failure to perceive constitutes a gross deviation from the standard of care that would be exercised by a reasonable person.

Current Law: As noted below, the District Court has authorized prepayment penalties for some offenses. If an offense has an incarceration penalty, the defendant must appear in court and a prepayment penalty is not available.

Life-threatening Injury Involving a Motor Vehicle or Vessel – Criminal Negligence

A person is prohibited from *causing a life-threatening injury* to another as a result of the person's driving, operating, or controlling a motor vehicle or vessel in a *criminally negligent* manner. Pursuant to § 3-212.1 of the Criminal Law Article, a person acts in a *criminally negligent* manner with respect to a result or a circumstance when (1) the person should be aware, but fails to perceive, that their conduct creates a substantial and unjustifiable risk that such a result will occur and (2) their failure to perceive constitutes a gross deviation from the standard of care that would be exercised by a reasonable person.

If convicted of causing a life-threatening injury by motor vehicle or vessel in a criminally negligent manner, a person is guilty of a misdemeanor and subject to a maximum of one year of imprisonment and/or a maximum fine of \$5,000.

Manslaughter by Vehicle or Vessel – Gross Negligence and Criminal Negligence

Pursuant to § 2-209 of the Criminal Law Article, a person may not cause the death of another as the result of the person's driving, operating, or controlling a motor vehicle or vessel in a *grossly negligent* manner. Manslaughter by vehicle or vessel (gross negligence) is a felony punishable by imprisonment for up to 10 years and/or a fine of up to \$5,000 for a first offense; specified subsequent offenders face a penalty of imprisonment for up to 15 years and/or a \$10,000 maximum fine.

Pursuant to § 2-210 of the Criminal Law Article, a person may not cause the death of another as the result of the individual's driving, operating, or controlling a motor vehicle or vessel in a *criminally negligent* manner. Manslaughter by vehicle or vessel (criminal negligence) is a misdemeanor punishable by imprisonment for up to three years and/or a fine of up to \$5,000 for a first offense; specified subsequent offenders face a penalty of imprisonment for up to five years and/or a fine of up to \$10,000.

Negligent Driving

Pursuant to § 21-901.1(b) of the Transportation Article, *negligent driving* is the operation of a motor vehicle in a careless or imprudent manner that endangers any property or the life or person of any individual. A violator is guilty of a misdemeanor and on conviction is subject to a fine of up to \$500. On conviction, the Motor Vehicle Administration (MVA) must assess one point against a violator's driver's license, or three points if the offense contributes to an accident. The District Court assesses a prepayment penalty of \$240 for this offense or \$280 if the offense contributes to an accident.

Reckless Driving

Pursuant to § 21-901.1(a) of the Transportation Article, *reckless driving* is the operation of a motor vehicle (1) in wanton or willful disregard for the safety of persons or property or (2) in a manner that indicates a wanton or willful disregard for the safety of persons or property. A person convicted of a reckless driving offense is subject to a fine of up to \$1,000. The District Court assesses a prepayment penalty of \$510 for reckless driving. Upon conviction, MVA must assess six points against a violator's driver's license.

State Revenues: General fund revenues increase minimally as a result of the bill's monetary penalty provision from cases heard in the District Court. While expected to be minimal, the magnitude of the increase in fine revenues depends upon charging and sentencing practices and the monetary value of fines actually collected from defendants.

State Expenditures: As mentioned above, the bill's prohibition on driving in a criminally negligent manner subjects a violator to imprisonment for up to six months. Given that negligent driving and reckless driving are non-incarcerable offenses, it is anticipated that many individuals who would have been charged with negligent driving or reckless driving – in the absence of the bill – are instead charged with driving in a criminally negligent manner (or are charged with both this offense and negligent or reckless driving).

Relevant Offense Data

Exhibit 1 contains information from the Judiciary on the number of violations (charges) and guilty dispositions (convictions) for reckless driving and negligent driving.

Exhibit 1
Violations and Guilty Dispositions
Reckless Driving and Negligent Driving Offenses

<u>Transportation Article Offenses</u>	<u>Fiscal 2023</u>		<u>Fiscal 2024</u>	
	<u>Violations</u>	<u>Guilty Dispositions</u>	<u>Violations</u>	<u>Guilty Dispositions</u>
District Court				
§ 21-901.1(a) – Reckless Driving	11,707	1,057	12,096	974
§ 21-901.1(b) – Negligent Driving	18,142	3,385	17,668	3,005
Circuit Courts				
§ 21-901.1(a) – Reckless Driving	1,668	77	1,869	68
§ 21-901.1(b) – Negligent Driving	2,170	89	2,251	96

Source: Maryland Judiciary

Office of the Public Defender

General fund expenditures for OPD increase by *at least* \$382,900 in fiscal 2026, which accounts for the bill’s October 1, 2025 effective date. This estimate reflects the cost of OPD hiring four assistant public defenders to provide representation in criminal negligence cases involving the driving or operation of a motor vehicle. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Positions	4.0
Salaries and Fringe Benefits	\$353,425
Operating Expenses	<u>29,475</u>
Minimum OPD FY 2026 State Expenditures	\$382,900

Future year expenditures reflect full salaries with annual increases and employee turnover as well as annual increases in ongoing operating expenses.

OPD advises that its caseload increases significantly because the offense established by the bill is an incarcerable offense, and it is assumed that the case volume for this offense is substantial. OPD estimates that, as a result of the bill, it receives 8,287 additional cases annually that require OPD representation. OPD’s estimate assumes that 13,000 charges are filed annually for driving in a criminally negligent manner, which equates to the same number of charges filed in fiscal 2024 for reckless driving offenses. OPD further assumes that (1) 75% of cases for this new offense are brought against individuals who are not

already represented by OPD on other charges; (2) 85% of the individuals who are charged and not already represented by OPD qualify for OPD representation; and (3) each case requires OPD attorneys to provide 2 hours of representation (for a total of 16,574 hours of attorney time).

Accordingly, OPD advises that it must hire 8 full-time assistant public defenders and 2.5 secretaries, at a cost of approximately \$886,000 in fiscal 2026 and increasing to approximately \$1.2 million by fiscal 2030, to handle the volume of new cases it receives under the bill. The Department of Legislative Services (DLS) advises that it is unable to independently verify the assumptions OPD used in its calculations. For example, OPD assumes that prosecutors opt to charge 100% of the persons they would have charged with reckless driving – in the bill’s absence – with this new offense; however, at the same time OPD fails to account for any charges being filed against persons who, absent the bill, would have been charged with negligent driving. Also, OPD’s assumption that 85% of individuals charged with driving in a criminally negligent manner are eligible for OPD representation is inconsistent with OPD’s own assumption for another recent bill that 45% of persons charged with reckless driving would qualify for OPD representation.

Nonetheless, DLS agrees that additional OPD personnel are needed to provide representation to indigent defendants in cases involving driving in a criminally negligent manner. Using the assumptions above but assuming that 70% of reckless driving cases and at least 25% of negligent driving cases are accompanied by a charge for the new offense and 45% of individuals charged are eligible for OPD representation, DLS advises that it is likely that OPD needs to hire *at least* four assistant public defenders to manage the increased caseload that it must absorb as a result of the bill. Should actual experience under the bill indicate the need for additional OPD personnel, OPD can request those positions through the annual budget process.

Judiciary

The Judiciary advises that it does not anticipate a significant operational or fiscal impact on the District Court as a result of the bill.

Department of Public Safety and Correctional Services

Depending on charging and sentencing practices for this new offense, general fund expenditures for DPSCS may increase minimally due to more people being committed to State correctional facilities for convictions in Baltimore City.

Generally, persons serving a sentence of one year or less in a jurisdiction other than Baltimore City are sentenced to a local detention facility. The Baltimore Pretrial Complex, a State-operated facility, is used primarily for pretrial detentions.

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

Local Expenditures: Expenditures increase minimally as a result of the bill's incarceration penalty. 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 \$140 to \$350 per incarcerated individual in recent years.

Additional Information

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

Designated Cross File: HB 883 (Delegate Wims) - Judiciary.

Information Source(s): Baltimore, Charles, and Garrett counties; Judiciary (Administrative Office of the Courts); Office of the Public Defender; Department of Natural Resources; Department of Public Safety and Correctional Services; Department of State Police; Department of Legislative Services

Fiscal Note History: First Reader - February 19, 2025
km/aad Third Reader - March 25, 2025
Revised - Amendment(s) - March 25, 2025

Analysis by: Ralph W. Kettell

Direct Inquiries to:
(410) 946-5510
(301) 970-5510