





May 23, 2024

**FISCAL AND POLICY NOTE**

TO: Jennifer A. Jenkins  
Council Administrator

Colette R. Gresham, Esq.  
Deputy Council Administrator

THRU: Josh Hamlin   
Director of Budget and Policy Analysis

FROM: Malcolm Moody -   
Legislative Budget and Policy Analyst

RE: Policy Analysis and Fiscal Impact Statement  
CB-016-2024 Late-Night Business Safety Plan

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**CB-016-2024** (*Proposed and Presented by: Council Members Oriadha and Fisher*)

Assigned to the Committee of the Whole (COW) Committee

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AN ACT CONCERNING LATE-NIGHT BUSINESS SAFETY PLAN for the purpose of requiring certain businesses that operate between 10:00 p.m. and 6:00 a.m. to obtain a late-night safety plan from the Office of the County Executive, or their Designee; that requires the business to obtain an approved late-night safety plan before operating; that the business must operate under the terms of the approved late-night safety plan; that an approved late-night safety plan authorizes the business to operate for three (3) years; that at the expiration of the three (3) period the business will need to obtain a new approved late-night safety plan; and that businesses operating without an approved late-night safety plan are subject in a civil fine for each day it operates without an approved late-night safety plan.

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## Fiscal Summary

### Direct Impact

*Expenditures:* Additional expenditures likely related to: (1) staffing requirements to implement and enforce requirements outlined in the legislation; and (2) any County funding appropriated for the grant program established under the legislation.

*Revenue:* None.

### Indirect Impact

Potentially favorable.

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### Legislative Summary:

CB-016-2024, proposed and sponsored by Council Members Oriadha and Fisher was presented on March 12, 2024, and was referred to the Government Operations and Fiscal Policy (GAFP) Committee. The Bill was discharged from the GAFP Committee and referred to the Committee of the Whole (COW). The Bill would establish the requirement for any Business<sup>1</sup> in the County to establish a Late-Night Safety Plan that will aim to reduce crime for businesses open during the operating hours described in the legislation and includes annual reporting requirements for the Department as defined in the Bill. The Bill would also establish a grant program to aide businesses in mitigating the costs associated implementing an approved or recommended Late-Night Safety Plan.

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### Current Law/Background:

Montgomery County has enacted Council Bill 14-23<sup>2</sup>, which will require that designated late-night businesses submit a late-night business safety plan to the Department<sup>3</sup> every three years and has similarities to the introduced Bill. Council Bill 14-23 defines a late-night business as a business that: (1) Is open to the public at any time between 2:00 a.m. and 5:00 a.m.; or (2) Is open to the public at any time between midnight and 2:00 AM and, within the previous 12 months, has been the subject of 2 or more service calls for law enforcement regarding alleged serious incidents occurring on or originating from the premises. The penalty for violating the provisions of the Bill amount to a class A violation<sup>4</sup> with each day a violation continues equating to a separate offense.

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<sup>1</sup> Excludes lodging or hospitals.

<sup>2</sup> Montgomery County Council - [Bill 14-23 - Police – Late Night Business Safety Plan](#)

<sup>3</sup> Defined as the Office of the County Executive or one or more offices or departments designated by the County Executive.

<sup>4</sup> Refer to Montgomery County Code, [Chapter 1, Article 01, Sec. 1-19](#) for fines and penalties associated with Class A violations.

The Montgomery County Council adopted the following amendments<sup>5</sup> to Council Bill 14-23 which are relevant to CB-016-2024, as presented:

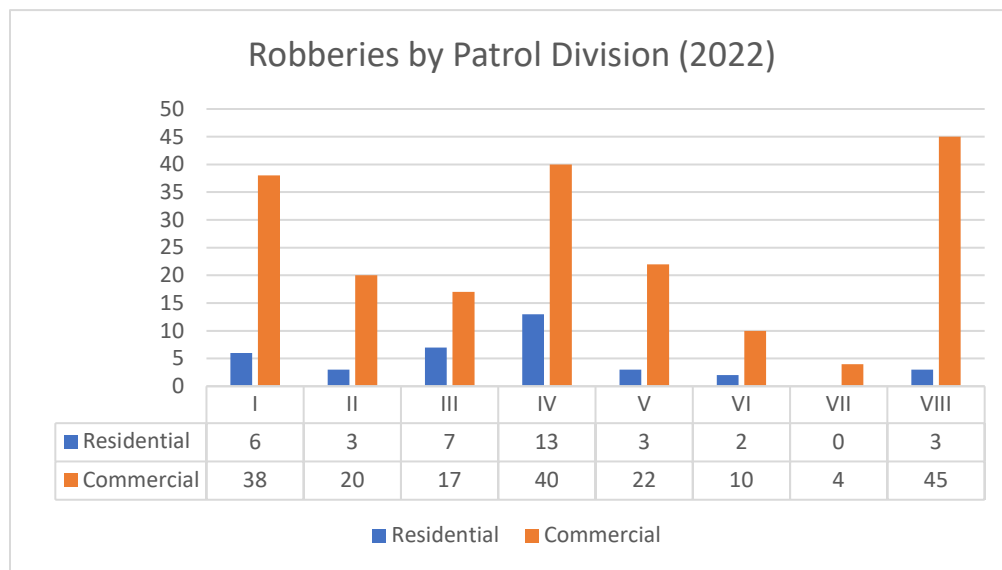
- Expanded the definition of businesses under the Bill to include those with licenses for on-site cannabis consumption and clarifies that businesses subject to the Bill do not include hotels or hospitals.
- Eliminated the concept of priority areas so the Bill applies to businesses Countywide.
- Changed the requirement for Late-Night Businesses to include businesses open to the public:
  - At any time between 2:00 AM and 5:00 AM; or
  - At any time between midnight and 2:00 AM and, within the previous 12 months, has been the subject of 2 or more service calls for law enforcement regarding alleged serious incidents occurring on or originating from the premises.

**Resource Personnel:**

- Tiffany Hannon, Chief of Staff, Council District 7

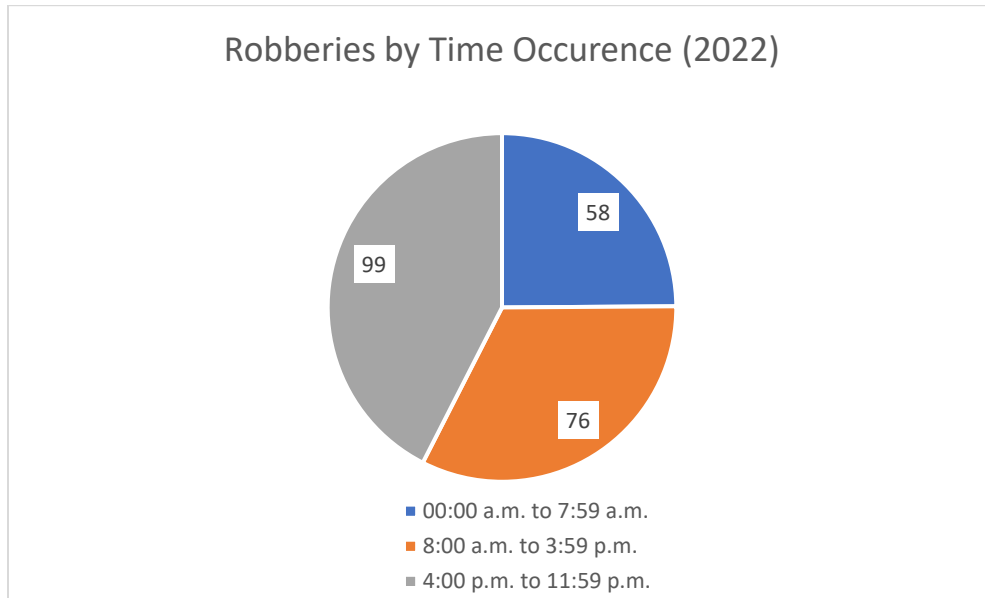
**Discussion/Policy Analysis:**

Concerning the goals of the Safety Plan and Grant, it is important to look at robberies in the County by Patrol Division and time of day as reported in the Prince George’s County Police Department’s (PGPD) 2022 Annual Report<sup>6</sup>. Below are charts showing robbery data from the report:



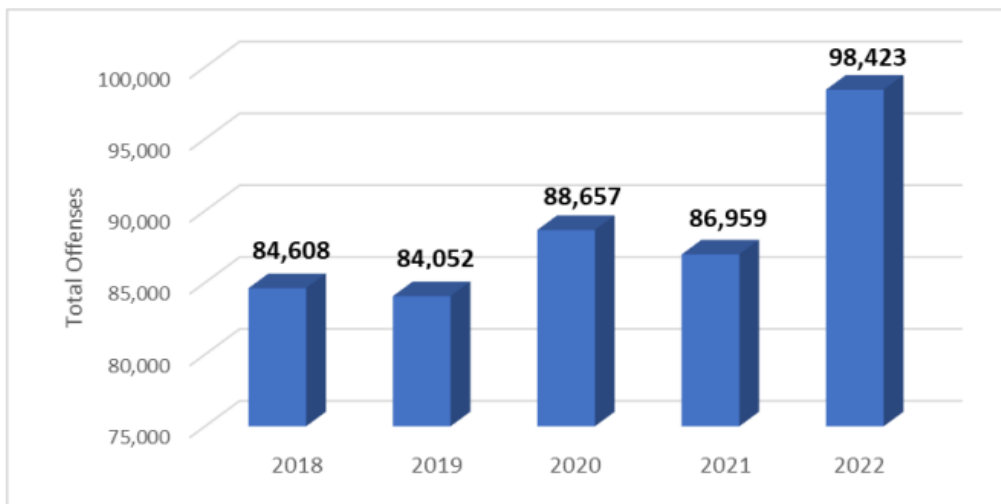
<sup>5</sup> [Action Staff Report Pg. 1 - 2](#)

<sup>6</sup> [Prince George's County Police Department - 2022 Annual Report - Pg. 55](#)



Concerning goals associated with creating Safety Plans and establishing a Grant Program, it is important to look at additional information on how businesses in the County are impacted by crime. In the County robbery offenses impacting businesses increased in 2022 and 2023. According to the Metropolitan Washington Council of Governments (COG)<sup>7</sup> in 2022 the PGPD reported a 33% increase in commercial robberies. Below is a chart of regional property crime trends (2018-2022) provided in the COG report<sup>8</sup>:

**Figure 2: Historical Property Crime Trends, National Capital Region, 2018-2022**



<sup>7</sup> [Annual Report on Crime & Crime Control](#) (September 2023)

<sup>8</sup> Property crime includes offenses of burglary, larceny, and motor vehicle theft.

*Provisions of CB-016-2024:*

The proposed Bill would require, within 180 days after its effective date, that the Department must promulgate and submit proposed regulations to the Council for review. There would also be a requirement that, within 90 days after notice of the approved regulations is published in the County Register, each late-night business must submit a proposed late-night business safety plan to the Department for review. Under this Bill the terms *Department* and *Late-night Business* will be defined under Subtitle 5. Section 5-167 of the County Code:

- Department will be defined as:
  - The Office of the County Executive, or one or more offices or departments designated by the County Executive.
- Late-Night Business will be defined as:
  - Open to the public at any time between 10:00 PM and 6:00 AM; or
  - Open to the public at any time between 10:00 PM and 2:00 AM and, within the previous 12 months, has been the subject of two (2) or more service calls for law enforcement regarding alleged serious incidents occurring on or originating from the premises.

In an effort to address late-night safety concerns and challenges facing businesses attempting to implement an approved or recommended late-night business safety plan the proposed Bill would require, that Sections 5-167.01 through 5-167.04 be added under Subtitle 5. Division 6 of the County Code. These new sections will outline when a Late-Night Business will be allowed to operate under the Bill, when a Late-Night Safety Plan expires, how the Department should implement the provisions of this Bill, security camera requirements for businesses, and allows a business to appeal the disapproval of a safety plan or appeal to be considered a Late-Night Business.

Outlined under Section 5-167.04 of the proposed Bill, any violators of the provisions of the Bill will be subject to a fine of not more than One Thousand Dollars (\$1,000). With each day a Late-Night Business operates in violation there will be a separate offense. It should be noted that the Maryland General Assembly recently passed SB0522/HB0501<sup>9</sup> that increased the maximum amount of a civil or a criminal fine that can be imposed by a charter county from \$1,000 to \$5,000.

Section 5-167.05 will be added to establish a grant program to assist a Late-Night Business in offsetting the costs of implementing an approved or recommended late-night business safety plan. Any grants under the Late-Night Business Safety Plan grant program are subject to appropriation. Late-Night Businesses that require plans will be prioritized awarding grants, which can be funded by state or federal funds, to businesses that require safety plans over those being recommended safety plans.

Section 5-167.06 details annual reporting requirements by the Department which is required to provide an annual report to the County Council on the following:

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<sup>9</sup> [SB 522/HB501 Charter Counties - Enforcement of Local Laws](#)

- Safety plans being reviewed under the provisions of the proposed Bill
- Late-night businesses that have not submitted late-night business safety plans
- Recommendations for the improvement of late-night business safety
- Grants being provided for late-night businesses and
- Crime data on areas for late-night businesses before and after the approval of a late-night business safety plan for the businesses.

With this information it may be appropriate for the Council's consideration of CB-016-2024 to consider:

- (1) whether the hours of operation in the definition of Late Night Businesses are appropriate;
- (2) what is the appropriate amount of resources to be allocated to the Grant Program to make it sufficient to accomplish the intended goals;
- (3) whether any additional County agencies should be included to collaborate with;
- (4) whether the reporting requirements ensure transparency and accountability for Late-Night Businesses' Safety Plans and the Grant Program;
- (5) what is the scope of a Priority Area? Would it apply to a specific street, zip codes, or towns, etc.;
- (6) how will the specifics of the Late-Night Safety Plan be shared with the public so they can report violations?

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### **Fiscal Impact:**

- *Direct Impact*

Enactment of CB-016-2024 is likely to have an adverse fiscal impact on the County in the form of additional expenditures related to additional staffing requirements associated with implementing and enforcing provisions of the Bill<sup>10</sup>. Also, the bill does not outline an amount to be appropriated to the Grant Program. The Grant Program is used solely to offset the costs of implementing an approved or recommended late-night business safety plan, and any County funds appropriated to and awarded from the Grant Program would be an additional expenditure.

- *Indirect Impact*

Enactment of CB-016-2024 could have a potentially favorable impact on the County by reducing crime at late-night businesses and potentially generating additional economic activity if crime is lowered.

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<sup>10</sup> Montgomery County's Office of Management and Budget projected a \$100,000 Fiscal Impact for the grant program established under Bill 14-23. Under Montgomery County's regulation, a business would be eligible for up to a \$10,000 rebate to assist in implementing an approved Safety Plan.

- *Appropriated in the Current Fiscal Year Budget*

No

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**Effective Date of Proposed Legislation:**

The Act shall take effect forty-five (45) days after it becomes law.

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If you require additional information, or have questions about this fiscal impact statement, please reach out to me via phone or email.