

Department of Legislative Services
Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE

House Bill 312

(Delegate Anderson, *et al.*) (By Request - Baltimore City Administration)

Judiciary

Criminal Law - Assault on Baltimore City Special Enforcement Officer - Prohibition

This bill expands provisions prohibiting felony second degree assault to include the intentional causing of physical injury to another person by a person who knows or has reason to know that the victim is a Baltimore City special parking enforcement officer or special traffic enforcement officer engaged in the performance of the officer's official duties.

Fiscal Summary

State Effect: The bill does not materially affect State finances, as discussed below.

Local Effect: Potential minimal increase in local revenues from fines imposed in circuit court cases. Expenditures are not affected.

Small Business Effect: None.

Analysis

Current Law:

First Degree Assault: A person commits a first degree assault if he/she (1) intentionally causes or attempts to cause serious physical injury to another person or (2) commits an assault with a firearm, including a handgun, assault pistol, machine gun, or other specified firearms. A person who commits a first degree assault is guilty of a felony and subject to imprisonment for up to 25 years.

Felony Second Degree Assault: A person commits a felony second degree assault if he/she intentionally causes physical injury to another if the person knows or has reason to know that the other person is a law enforcement officer or parole or probation agent engaged in the performance of the officer/agent's official duties. "Physical injury" means any impairment of physical condition, excluding minor injuries. Violators are subject to imprisonment for up to 10 years and/or a maximum fine of \$5,000.

Misdemeanor Second Degree Assault: The misdemeanor second degree assault statute applies to assaults that are not considered to be felony assaults in the first or second degrees. Under the misdemeanor second degree assault statute, a person is prohibited from committing an assault. A violator is subject to imprisonment for up to 10 years and/or a maximum fine of \$2,500. Assault means the crimes of assault, battery, and assault and battery, which are defined through case law.

Special Parking and Traffic Enforcement Officers in Baltimore City: Under the Code of Public Local Laws of Baltimore City, the Commissioner of the Baltimore City Police Department has the authority to appoint city employees as special parking enforcement officers, and the Mayor and City Council may provide for the nomination, duties, functions, and procedures of these officers. Special parking enforcement officers may issue parking citations, but they do not have arrest or custodial powers.

The Commissioner of the Baltimore City Police Department may appoint a Baltimore City employee to be a special traffic enforcement officer and may revoke an appointment at any time. Through ordinance, the Mayor and City Council of Baltimore City may provide for the nomination of special traffic enforcement officers and set the duties, procedures, and functions of these officers. Special traffic enforcement officers have the same authority to control and direct pedestrian vehicular traffic under State and local laws as a police officer during high-traffic periods, as necessitated by an emergency situation or incident, and in connection with a special event. However, these officers do not have the authority to make arrests or issue citations for moving violations other than for a failure to obey lawful traffic direction or traffic control devices.

Background: According to the Maryland State Commission on Criminal Sentencing Policy, there were 20 convictions for felony second degree assault in the State's circuit courts during fiscal 2013.

State Fiscal Effect: Given that the maximum incarceration penalty for misdemeanor second degree assault is the same as the maximum incarceration penalty for felony second degree assault, this bill is not expected to materially affect State finances. This fiscal and policy note assumes that the acts affected by this bill would be prosecuted as misdemeanor second degree assaults under the existing second degree assault law and

that the bill's specification of these acts as felony second degree assaults based on the victim of the crime will not increase the likelihood of charges being filed and convictions being secured in these cases.

However, it should be noted that changing crimes from misdemeanors to felonies means that (1) such cases are likely to be filed in the circuit courts rather than the District Court and (2) some persons may eventually serve longer incarcerations due to enhanced penalty provisions applicable to some offenses for prior felony convictions. Accordingly, it is assumed that this bill shifts an unknown number of cases from the District Court to the circuit courts. It is not known whether such a prospective shift may spur more plea bargains and affect actual sentencing practices for this offense.

Additional Information

Prior Introductions: None.

Cross File: SB 264 (Baltimore City Senators)(By Request - Baltimore City Administration) - Judicial Proceedings.

Information Source(s): Judiciary (Administrative Office of the Courts), State's Attorneys' Association, Office of the Public Defender, Maryland State Commission on Criminal Sentencing Policy, Department of Legislative Services

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ncs/kdm

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