

Department of Legislative Services
Maryland General Assembly
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FISCAL AND POLICY NOTE

House Bill 133

(Delegate Anderson)(By Request - Baltimore City
Administration)

Judiciary

**Criminal Procedure - Warrantless Arrests - Assault on Baltimore City Special
Enforcement Officer**

This bill adds a second-degree assault against a Baltimore City special parking enforcement officer or special traffic enforcement officer engaged in the performance of the officer's official duties to the list of specified crimes for which a police officer is statutorily authorized to make a warrantless arrest.

Fiscal Summary

State Effect: Minimal increase in general fund revenues and expenditures if the ability of a police officer to make a warrantless arrest for a second-degree assault against a Baltimore City special parking enforcement officer or special traffic enforcement officer results in an increase in the number of individuals convicted of misdemeanor second-degree assault in Baltimore City.

Local Effect: Minimal increase in local revenues from fines imposed in circuit court cases in Baltimore City. Local expenditures are not affected.

Small Business Effect: None.

Analysis

Current Law:

Warrantless Arrests: Generally, for a police officer to be authorized to make an arrest, a judge or District Court commissioner must first issue a warrant based on a finding of probable cause.

A law enforcement officer may, however, make a warrantless arrest when (1) a person commits or attempts to commit a felony or misdemeanor in the officer's presence or within view of the officer; (2) the officer has probable cause to believe that a felony or misdemeanor is being committed in the presence or within the view of the police officer; (3) the police officer has probable cause to believe that a person has committed or attempted to commit a felony, whether or not in the presence or within the view of the police officer; or (4) the officer has probable cause to believe that the person has committed one of a limited number of misdemeanors specified in statute and that unless the person is arrested immediately, the person may not be apprehended, may cause physical harm or property damage, or may tamper with, dispose of, or destroy evidence.

The crimes specified in statute include theft of property valued at less than \$1,000, vehicular manslaughter, malicious burning and mischief, carrying or wearing a concealed weapon, and certain controlled dangerous substance offenses.

A police officer may also arrest a person without a warrant in situations involving domestic abuse and stalking. An officer is required to arrest with or without a warrant and take into custody any person the officer has probable cause to believe is in violation of an interim, temporary, or final protective order in effect at the time of the violation.

Second-degree Assault: A person is prohibited from committing an assault. Violators are guilty of misdemeanor second-degree assault, punishable by 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.

However, a person commits a *felony* second-degree assault if he/she intentionally causes physical injury to another and 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. Baltimore City special parking enforcement officers and special traffic enforcement officers are not considered law enforcement officers under the felony second-degree assault statute.

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 Judiciary, in calendar 2014, there were 58 cases involving second-degree assault on a law enforcement officer or parole or probation agent in Baltimore City. As previously mentioned, these assaults are considered felony second-degree assaults, and the officers specified in this bill are not included in the definition of a “law enforcement officer” under the felony second-degree assault statute.

According to the Department of Public Safety and Correctional Services, based on statewide data, the average sentence for individuals for whom second-degree assault (felony or misdemeanor) was their most serious offense was 39.4 months.

State Revenues: General fund revenues increase minimally if the bill’s provisions increase the amount of fines imposed in the Baltimore City District Court for misdemeanor second-degree assault.

State Expenditures: General fund expenditures increase minimally if the bill’s provisions result in more people being committed to State correctional facilities for misdemeanor second-degree assault. The number of people convicted as a result of the bill is expected to be minimal.

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 \$3,100 per month. This bill alone, however, should not create the need for additional beds, personnel, or facilities. Excluding overhead, the average cost of housing a new

State inmate (including variable health care costs) is about \$770 per month. Excluding all health care, the average variable costs total \$200 per month.

Persons sentenced in Baltimore City are generally incarcerated in State correctional facilities. The Baltimore City Detention Center, a State-operated facility, is used primarily for pretrial detentions.

Local Revenues: Revenues increase minimally if the bill's provisions increase the amount of fines imposed in the Circuit Court for Baltimore City for misdemeanor second-degree assault.

Additional Information

Prior Introductions: None.

Cross File: SB 169 (Senator Gladden) (By Request - Baltimore City Administration) - Judicial Proceedings.

Information Source(s): Judiciary (Administrative Office of the Courts), Department of State Police, Office of the Public Defender, Department of Public Safety and Correctional Services, State's Attorneys' Association, Department of Legislative Services

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mel/kdm

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