

Department of Legislative Services
Maryland General Assembly
2016 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 107

(Chair, Education, Health, and Environmental Affairs
Committee)(By Request - Departmental - Military)

Education, Health, and Environmental Affairs

Health and Government Operations

Military Department - Summary Courts-Martial - Penalties

This departmental bill authorizes a summary court-martial to impose a sentence of confinement for a period not to exceed 30 days for service members of all ranks.

Fiscal Summary

State Effect: The bill's changes to procedures for summary courts-martial do not materially affect State finances.

Local Effect: None.

Small Business Effect: The Military Department has determined that this bill has minimal or no impact on small business (attached). The Department of Legislative Services concurs with this assessment. (The attached assessment does not reflect amendments to the bill.)

Analysis

Current Law: Under provisions of the Public Safety Article governing the State militia and the Adjutant General of the Military Department, there are three types of courts-martial: general, special, and summary. This bill addresses only summary courts-martial, as applied to enlisted soldiers and noncommissioned officers. An enlisted soldier and noncommissioned officer of the organized militia may be subjected to summary court-martial in accordance with the procedures and penalties adopted by the Adjutant General. The Adjutant General of the Military Department may adopt rules and regulations for the governance, discipline, and performance of duties of the State militia, consistent with the Uniform Code of Military Justice (UCMJ) and with the federal rules, regulations,

and statutes applicable to the Department of Defense, the Army, the Air Force, and the National Guard Bureau of the United States. The rules and regulations relating to summary courts-martial are currently in the process of adoption by the Military Department. The Military Department is exempt from the Administrative Procedure Act.

An enlisted individual may be tried by a court-martial for:

- disobedience of orders;
- disrespect to superior;
- mutiny;
- desertion;
- neglect of duty;
- drunkenness on duty;
- conduct prejudicial to good order and military discipline;
- an act contrary to Title 13 of the Public Safety Article or to orders and regulations that govern the militia;
- without proper excuse, absence from or tardiness in attending a drill, parade, encampment, or other duty ordered by competent authority;
- neglecting to take proper care of or willfully damaging or destroying arms, uniforms, equipment, or military property; or
- fraudulent enlistment.

A summary court-martial may impose a sentence that includes:

- a fine of not more than the member's pay and allowances for four unit training assemblies;
- a forfeiture of up to two-thirds of the member's pay and allowances for up to four unit training assemblies;
- for enlisted personnel in the grade of E5 and above, reduction in rank to the next inferior pay grade; or
- for members in the rank of E4 and below, reduction in rank to the lowest enlisted grade or confinement for a period not to exceed 30 days.

Trial by summary court-martial provides a procedure for resolution of charges of relatively minor misconduct committed by enlisted members of the military. There is no civilian equivalent for a summary court-martial. A conviction by a summary court-martial may not constitute a conviction for the purpose of any disqualification or disability imposed by law because of conviction of a crime.

Background: The Military Department advises that an updated process for a summary court-martial is vital to commanders to improve military discipline. The department further advises that the current law restriction on the imposition of a sentence of confinement for a period of up to 30 days by a summary court-martial to only members in the rank of E4 and below limits its use by commanders. According to the department, the sole workable current option is separation for a soldier or airman. The department believes that this bill enables commanders to sentence all ranks in the same fashion and allows for a nonjudicial form of punishment.

Enacted in 1950, UCMJ established a standard set of procedural and substantive criminal laws for all members of the military, including those on active duty, students at military academies, prisoners of war, and, in some cases, retired or reserve personnel. It changed prior military law in several ways, especially by providing substantial procedural safeguards for the accused, such as the right to counsel, the right to remain silent, the right to be informed of the nature of an accusation, and the right to be advised of these rights.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Military Department, Department of Legislative Services

Fiscal Note History: First Reader - January 14, 2016
min/lgc Revised - Senate Third Reader - March 15, 2016

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Public Safety – Summary Courts Martial – Penalties

BILL NUMBER: SB 107

PREPARED BY: Military Department

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

The proposed legislation will have no impact on small business in Maryland.