

Department of Legislative Services
 Maryland General Assembly
 2017 Session

FISCAL AND POLICY NOTE
 Third Reader - Revised

House Bill 739
 Judiciary

(Delegate Moon, *et al.*)

Judicial Proceedings

Public Safety - SWAT Teams - Standards

This bill requires the Maryland Police Training and Standards Commission (MPTSC) to consult and cooperate with commanders of “SWAT teams” to develop standards for training and deployment of SWAT teams and of law enforcement officers who are not members of a SWAT team who conduct no-knock warrant service in the State based on best practices in the State and nationwide.

Fiscal Summary

State Effect: General fund expenditures increase by \$24,800 in FY 2018 only for MPTSC to develop the required standards. State law enforcement agencies can implement the bill with existing resources. Revenues are not affected.

(in dollars)	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	24,800	0	0	0	0
Net Effect	(\$24,800)	\$0	\$0	\$0	\$0

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

Local Effect: Local law enforcement agencies can implement the bill with existing budgeted resources.

Small Business Effect: None.

Analysis

Bill Summary: “SWAT team” means an agency-designated unit of law enforcement officers who are selected, trained, and equipped to work as a coordinated team to resolve critical incidents that are so hazardous, complex, or unusual that they may exceed the capabilities of first responders or investigative units.

Current Law/Background:

Previous SWAT Team Reporting Requirements

Chapters 542 and 543 of 2009 required a law enforcement agency that maintains a SWAT team to report the following information to the Governor's Office of Crime Control and Prevention (GOCCP) and the appropriate county or municipality, on a biannual basis:

- the number of times the team was activated and deployed by the law enforcement agency in the previous six months;
- the name of the county and/or municipality and zip code of the location where the team was deployed for each activation;
- the reason for each activation and deployment;
- the legal authority, including type of warrant, if any, for each activation and deployment; and
- the result of each activation and deployment, including (1) the number of arrests made, if any; (2) whether property was seized; (3) whether a forcible entry was made; (4) whether a weapon was discharged by a SWAT team member; and (5) whether a person or domestic animal was injured or killed by a team member.

MPTSC, known at the time as the Police Training Commission, in consultation with GOCCP, developed a standardized format for the reports. GOCCP analyzed and summarized the biannual reports and submitted a report of the analyses and summaries to the Governor, the General Assembly, and each law enforcement agency by September 1 of each year.

The provisions of Chapters 542 and 543 terminated June 30, 2014. Several bills to extend the termination date failed during the 2013 session.

According to the *Fiscal Year 2014 SWAT Team Data Analysis* report, which was the final report issued by GOCCP pursuant to Chapters 542 and 543, during fiscal 2014, a total of 1,689 SWAT deployments were activated in Maryland, an increase of 2.4% from fiscal 2013. In fiscal 2014, SWAT deployments occurred in all 24 of Maryland's jurisdictions. A total of 35 police departments reported at least 1 SWAT deployment and activation. Six additional agencies had an active SWAT team but did not make a deployment during the reporting period. All of the remaining law enforcement agencies in Maryland were excluded from the 2014 report because they do not have SWAT teams.

General Police Authority

Under §§ 2-102 and 2-103 of the Criminal Procedure Article, a police officer may make arrests, conduct investigations, and otherwise enforce the laws of the State throughout the

State without limitations as to jurisdiction. A police officer may exercise these powers when:

- participating in a joint investigation with officials from another state, federal, or local law enforcement unit, at least one of which has local jurisdiction;
- the officer is rendering assistance to another police officer;
- the officer is acting at the request of another police officer or a State Police officer; or
- an emergency exists.

When exercising these powers, the police officer must act in accordance with regulations adopted by the officer's employing unit and must notify the following persons of an investigation or enforcement action:

- the chief of police, if any, or chief's designee, of Baltimore City, a county, a municipality, a sheriff, or other specified entities, when in such a jurisdiction; and
- the Department of State Police (DSP) barrack commander or commander's designee, unless there is an agreement otherwise with DSP.

Immunity from Liability, Search Warrants, and Warrantless Arrests

A police officer acting under any of these authorities has all the immunities from liability and exemptions as a State Police officer in addition to any other immunities and exemptions to which the police officer is otherwise entitled.

A judge may issue a search warrant whenever it is made to appear to the judge that there is probable cause to believe that (1) a misdemeanor or felony is being committed by a person or in a building, apartment, premises, place, or thing within jurisdiction of the judge or (2) property subject to seizure is on the person or in or on the building, apartment, premises, place, or thing. An application for a search warrant must be in (1) writing; (2) signed and sworn to by the applicant; and (3) accompanied by an affidavit that sets forth the basis for probable cause and contains facts within the personal knowledge of the affiant that there is probable cause. State law does not specifically allow "no-knock" warrants.

A police officer may make a warrantless arrest if the officer has probable cause to believe that the person has committed one of several enumerated crimes and, that unless the person is arrested immediately, the person may not be apprehended, may cause physical injury or property damage to another, or may tamper with, dispose of, or destroy evidence.

State Expenditures: General fund expenditures increase by \$24,799 in fiscal 2018 only, which accounts for the bill's October 1, 2017 effective date. This estimate reflects the cost of hiring a part-time contractual curriculum developer within MPTSC for nine months to

develop standards and work with commanders of SWAT teams. It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Contractual Position	0.5
Salary and Fringe Benefits	\$19,924
Operating Expenses	<u>4,875</u>
Total FY 2018 State Expenditures	\$24,799

This estimate does not include any health insurance costs that could be incurred for specified contractual employees under the State's implementation of the federal Patient Protection and Affordable Care Act.

Training adaptations for DSP and any other affected State law enforcement agencies can be handled with existing budgeted resources.

Additional Information

Prior Introductions: HB 521 of 2016, a similar bill, passed the House with amendments and was referred to the Senate Judicial Proceedings Committee, but no further action was taken. Its cross file, SB 589, received a hearing in the Senate Judicial Proceedings Committee, but no further action was taken. SB 173/HB 338 of 2015, similar bills, received hearings in the Senate Judicial Proceedings Committee and the House Judiciary Committee, respectively, but no further action was taken on either bill.

Cross File: SB 941 (Senator Smith, *et al.*) - Judicial Proceedings.

Information Source(s): Caroline, Montgomery, and Prince George's counties; City of Bowie; Governor's Office of Crime Control and Prevention; Department of Public Safety and Correctional Services; Department of State Police; Maryland Department of Transportation; Department of Legislative Services

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