

Department of Legislative Services
Maryland General Assembly
2000 Session

FISCAL NOTE

House Bill 51 (Allegany County Delegation)

Judiciary

Criminal Procedure - Warrantless Arrest on School Property - Assault

This bill allows a police officer, with probable cause, to arrest without a warrant a person who has committed second degree assault while on secondary or elementary school premises if the victim was a teacher, teacher's assistant, principal, vice principal, administrator, official, employee, volunteer, contractor, or employee of a contractor of the school or school system. Violators are guilty of a misdemeanor and subject to current law second degree assault maximum penalties of a fine of \$2,500 and/or imprisonment for ten years.

Fiscal Summary

State Effect: Potential minimal increase in general fund revenues and expenditures due to the bill's penalty provisions.

Local Effect: Potential minimal increase in revenues and expenditures due to the bill's penalty provisions.

Small Business Effect: None.

Analysis

Current Law: Current law generally allows a police officer to make a warrantless arrest for a misdemeanor only if: (1) the suspect commits or attempts to commit the misdemeanor in the presence of, or within the view of, the officer; or (2) the officer has probable cause to believe that a misdemeanor is being committed in the officer's presence or within the officer's view.

Current law also allows a police officer to make a warrantless arrest for certain specified misdemeanors even if the misdemeanor is not carried out in the officer's presence or view. All that is required is that the officer has probable cause to believe that the person has

committed the misdemeanor and that unless the person is immediately arrested the person may not be apprehended, may cause property damage or injury to others, or may tamper with evidence. Examples of these misdemeanors include malicious burning, carrying or wearing a weapon, and destroying property of another.

Background: This bill adds second degree assault upon certain persons on school premises to the list of misdemeanors for which an officer may make a warrantless arrest even if the misdemeanor was not committed in the officer's presence or within the officer's view. Second degree assault is a less serious offense than first degree assault, which involves causing a substantial risk of death or serious permanent or serious protracted injury.

State Revenues: General fund revenues could increase minimally as a result of the applicable current law monetary penalty provision from cases heard in the District Court.

State Expenditures: General fund expenditures could increase minimally as a result of the applicable current law incarceration penalty due to more people being committed to Division of Correction (DOC) facilities and increased payments to counties for reimbursement of inmate costs. The number of people convicted of this proposed crime is expected to be minimal.

Persons serving a sentence longer than one year are incarcerated in DOC facilities. Currently, the average total cost per inmate, including overhead, is estimated at \$1,700 per month. This bill alone, however, should not create the need for additional beds, personnel, or facilities. The average variable cost of housing a new DOC inmate (food, medical care, etc.), excluding overhead, is \$260 per month.

Persons serving a sentence of one year or less in a jurisdiction other than Baltimore City are sentenced to local detention facilities. The State reimburses counties for part of their incarceration costs, on a per diem basis, after a person has served 90 days. State per diem reimbursements for fiscal 2001 are estimated to range from \$11 to \$54 per inmate depending upon the jurisdiction. Persons sentenced to such a term in Baltimore City are generally incarcerated in DOC facilities. The Baltimore City Detention Center, a State operated facility, is used primarily for pretrial detentions.

Local Revenues: Revenues could increase minimally as a result of the applicable current law monetary penalty provision from cases heard in the circuit courts.

Local Expenditures: Expenditures could increase minimally as a result of the applicable current law incarceration penalty. Counties pay the full cost of incarceration for people in

their facilities for the first 90 days of the sentence, plus part of the per diem cost after 90 days. Per diem operating costs of local detention facilities are expected to range from \$15 to \$80 per inmate in fiscal 2001.

Additional Information

Prior Introductions: In 1999 a similar bill, HB 51, received an unfavorable report from the Judiciary Committee.

Cross File: None.

Information Source(s): Department of Public Safety and Correctional Services (Division of Correction), Department of Legislative Services

Fiscal Note History: First Reader - January 27, 2000

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