

Department of Legislative Services
Maryland General Assembly
2003 Session

FISCAL AND POLICY NOTE

Senate Bill 191 (Chairman, Judicial Proceedings Committee)
(By Request – Departmental – Military)
Judicial Proceedings

Military Justice - Maryland National Guard

This departmental bill authorizes a military judge or a summary court officer to issue a warrant to take a person into custody, on a showing of probable cause that the person: (1) is a member of the National Guard; and (2) has committed an offense that could lead to a court martial. A peace officer or member of the National Guard must execute a warrant issued under these provisions in the same manner as an arrest warrant issued by a criminal court. The person taken into custody must be delivered promptly into the custody of the Maryland National Guard for trial by court-martial or other disposition.

Fiscal Summary

State Effect: The bill is not expected to have a discernible impact on the District Court.

Local Effect: The bill is not expected to have a discernible impact on the circuit courts.

Small Business Effect: The Military Department has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment.

Analysis

Current Law: With certain exceptions, a person may not be taken into custody unless a valid warrant has been issued for that person's arrest. District Court judges, circuit court judges, and District Court commissioners may issue arrest warrants, which are served by authorized law enforcement officers.

Background: The bill is patterned after Articles 7 and 8 of the federal Uniform Code of Military Justice. It provides for the apprehension and return to military control of soldiers and airmen who are absent without leave (AWOL), and other military offenders, without the need to first obtain a warrant from a civilian judge.

The National Guard conducts training exercises on weekends and at other times when civilian judges are not readily available to issue warrants. The Military Department advises that it can be difficult to bring soldiers back under military control once they have dispersed following such training.

A summary court is a military court consisting of one officer that is convened and held to try relatively minor offenses.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): State's Attorneys' Association, Military Department, Judiciary (Administrative Office of the Courts), Department of Legislative Services

Fiscal Note History: First Reader - February 3, 2003
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