

Department of Legislative Services
Maryland General Assembly
2003 Session

FISCAL AND POLICY NOTE

House Bill 732
Judiciary

(Delegate Kelly, *et al.*)

Crimes - Assault in the Third Degree

This bill establishes the crime of third degree assault. A violator is guilty of a misdemeanor and subject to maximum penalties of imprisonment for 90 days and/or a fine of \$500.

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 expenditures due to the bill's incarceration penalty provision.

Small Business Effect: None.

Analysis

Bill Summary: This bill provides that, under a prohibition against assault in the third degree, a person may not: (1) intentionally cause unreasonable physical contact that does not result in physical injury to another who does not consent to the contact; (2) engage in unreasonable conduct intending to put another in fear of imminent offensive physical contact; or (3) attempt to cause unreasonable physical contact to another who does not consent to the attempted contact. It is not a defense that physical injury resulted.

An offense under these provisions must be initiated by filing a statement of charges, citation, or criminal information in the District Court. Unless a violation is specifically

charged, assault in the third degree may not be treated as a lesser included offense of any other offense.

The bill also provides for the sufficiency of content of an indictment, information, other charging document, or warrant for third degree assault.

Current Law: First degree assault is limited to intentionally causing or attempting to cause serious physical injury to another, or committing an assault with a firearm. Violators are guilty of a felony and subject to a maximum penalty of 25 years imprisonment. An assault on any person that does not involve causing or attempting to cause serious physical injury or the use of a firearm is assault in the second degree. Violators are guilty of a misdemeanor and subject to maximum penalties of a fine of \$2,500 and/or imprisonment for ten years.

State Revenues: General fund revenues could increase minimally as a result of the bill's monetary penalty provision since these cases would likely be heard in the District Court.

State Expenditures: General fund expenditures could increase minimally as a result of the bill's incarceration penalty due to more people convicted in Baltimore City being committed to Division of Correction (DOC) facilities. The number of people convicted of this proposed crime is expected to be minimal.

Generally, persons serving a sentence of 18 months or less in a jurisdiction other than Baltimore City are sentenced to a local detention facility. The State only reimburses counties for part of their incarceration costs, on a per diem basis, after a person has served 90 days. Persons sentenced to such a term in Baltimore City are generally incarcerated in a DOC facility. Currently, the DOC average total cost per inmate, including overhead, is estimated at \$1,850 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 DOC inmate (including medical care and variable costs) is \$350 per month. Excluding medical care, the average variable costs total \$120 per month.

Local Expenditures: Expenditures could increase minimally as a result of the bill's incarceration penalty. Counties pay the full cost of incarceration 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 \$28 to \$84 per inmate in fiscal 2004.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts), Department of Public Safety and Correctional Services (Division of Correction), Department of Legislative Services

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