

Department of Legislative Services
Maryland General Assembly
2003 Session

FISCAL AND POLICY NOTE
Revised

House Bill 593
Judiciary

(Delegate Petzold, *et al.*)

Judicial Proceedings

Criminal Law - Stalking - Included Acts

This bill expands the elements of the crime of stalking beyond requiring the intent of placing a victim in fear to include reasonable knowledge that one's actions would place the victim in fear. The bill redefines stalking to mean a malicious course of conduct that includes approaching or pursuing another where the person intends to place or knows or reasonably should have known the conduct would place another in reasonable fear of serious bodily injury, assault, rape or sexual offense (including attempted acts), false imprisonment, or death, or that a third person likely will suffer any of these acts. The bill exempts conduct performed to ensure compliance with a court order or carry out a lawful commercial purpose, or otherwise authorized by local, State, or federal law. Maximum misdemeanor penalties of five years imprisonment or a \$5,000 fine, or both, are unchanged.

Fiscal Summary

State Effect: Potential minimal increase in general fund revenues and expenditures due to the bill's redefinition of the crime of stalking.

Local Effect: Potential minimal increase in revenues and expenditures due to the bill's redefinition of the crime of stalking.

Small Business Effect: None.

Analysis

Current Law: "Stalking" is a prohibited act and means a malicious course of conduct that includes approaching or pursuing another with the intent to place that individual in

reasonable fear of serious bodily injury or death, or that a third person likely will suffer serious bodily injury or death. A violator is guilty of a misdemeanor and subject to maximum penalties of imprisonment for five years and/or a fine of \$5,000. A sentence imposed under these provisions may be separate from and consecutive to or concurrent with a sentence for any other crime based on the same acts.

Generally, with certain statutory exceptions, misdemeanor offenses are heard in the District Court, and felony offenses in the circuit courts. A prosecution may be brought either in the District Court or the circuit courts at the discretion of a prosecutor, if the penalty is confinement for at least three years or a fine of at least \$2,500. All jury trials are heard in the circuit courts. A defendant is entitled to demand a jury trial if the charge subjects the defendant to the possibility of incarceration for more than 90 days.

Background: From 1999 to 2001, four stalking cases arose in the circuit courts, with an average sentence of 30 months meted out to persons convicted of the offense. The historical number of stalking cases in District Court is not known.

State Revenues: General fund revenues could increase minimally as a result of a greater number of successful stalking prosecutions in the District Court.

State Expenditures: Changing crimes from misdemeanors to felonies generally means: (1) that such cases will likely be filed in the circuit courts rather than the District Court; and (2) some persons could eventually serve longer incarcerations due to enhanced penalty provisions, applicable to some offenses, for prior felony convictions. It is not known whether, under this bill's provisions, the prospect of a jury trial might spur more plea bargains and affect actual sentencing practices for this offense. However, the bill's provisions may increase the circumstances in which more stalking cases are successfully prosecuted.

Accordingly, general fund expenditures could increase minimally as a result of the bill's provisions 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 increase minimally.

Persons serving a sentence longer than 18 months are incarcerated in DOC facilities. Currently, the 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.

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 2004 are estimated to range from \$14 to \$59 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. For persons sentenced to a term of between 12 and 18 months, the sentencing judge has the discretion to order that the sentence be served at a local facility or DOC.

Local Revenues: Revenues could increase minimally as a result of a greater number of successful stalking prosecutions in the circuit courts.

Local Expenditures: Expenditures could increase minimally as a result of the bill's provisions. 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 \$28 to \$84 per inmate in fiscal 2004.

Additional Information

Prior Introductions: None.

Cross File: SB 352 (Senator Green, *et al.*) – Judicial Proceedings.

Information Source(s): Judiciary (Administrative Office of the Courts), Department of Public Safety and Correctional Services (Division of Correction), State Commission on Criminal Sentencing Policy, Office of the Public Defender, Department of Legislative Services

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