

Department of Legislative Services
Maryland General Assembly
2003 Session

FISCAL AND POLICY NOTE
Revised

House Bill 68

(Delegate Boschert, *et al.*)

Judiciary

Judicial Proceedings

Crimes - Assault on Law Enforcement Officer

This bill prohibits a person from committing an assault that causes “physical injury” to another person knowing or having reason to know that the other person is performing official duties as a law enforcement officer or an officer on a probationary status. A violator is guilty of the felony of second degree assault on a law enforcement officer and subject to maximum penalties of imprisonment for ten years and/or a fine of \$2,500. The bill gives the District Court concurrent jurisdiction with a circuit court for this offense.

Fiscal Summary

State Effect: Potential increases in general fund revenues and expenditures due to the bill’s penalty provisions.

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

Small Business Effect: None.

Analysis

Current Law: There is no prohibition specifically addressing assault on law enforcement officers. Such assaults are prosecuted under nonvictim specific assault provisions.

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.

Background: According to the FBI's *Uniform Crime Reports*, in 2001, data reported by 9,688 law enforcement agencies nationwide, covering more than 74.4% of the total U.S. population, showed that 56,666 assaults were committed against law enforcement officers while they were performing their duties.

In Maryland, a total of 3,947 law enforcement officers were assault victims in the line of duty in 2001. That represents a 6% decrease in such assaults from the prior year (4,189 in 2000). Physical force was used in 85% of all such assaults in 2001. The greatest number occurred while the officers were responding to disturbance calls. Personal injury to the officer occurred in 572 instances.

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

State Expenditures: General fund expenditures could increase as a result of the bill's incarceration penalty due to more people being committed to Division of Correction (DOC) facilities and increased payments to counties for reimbursement of inmate costs. Only one person was convicted of a first degree assault against a law enforcement officer in fiscal 2002. However, the provisions of this bill would tend to increase the number of people prosecuted for assault against a law enforcement officer. The number of persons who would be convicted of this proposed crime cannot be estimated with certainty.

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.

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 the bill's monetary penalty provision from cases heard in the circuit courts.

Local Expenditures: Expenditures could increase as a result of the bill's incarceration penalty in only those instances when an offender is sentenced to a term of less than 18 months and directed to serve that sentence at a local correctional facility. 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: Similar bills were introduced in 1999, 2000, and 2002. HB 956 of 1999, HB 67 and HB 235 of 2000, and HB 1414 of 2002 each received an unfavorable report from the House Judiciary Committee. SB 336 of 2000 was withdrawn.

Cross File: SB 177 (Senator Greenip, *et al.*) – Judicial Proceedings.

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

Fiscal Note History: First Reader - February 7, 2003
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