

Department of Legislative Services
Maryland General Assembly
2003 Session

FISCAL AND POLICY NOTE
Revised

House Bill 539
Judiciary

(Delegate Zirkin, *et al.*)

Judicial Proceedings

Crimes - Representation of Destructive Device - Substance Representing Toxic Material

This bill expands the scope of the felony of manufacturing, possessing, transporting, or placing a device representing a destructive device with the intent to terrorize by including the manufacture, possession, transport, or placement of a substance resembling a toxic material with the intent to terrorize under the current law prohibition and related provisions.

Fiscal Summary

State Effect: Potential minimal increase in general fund incarceration expenditures due to the bill's expanded scope of an existing prohibition.

Local Effect: Potential minimal increase in revenues due to the bill's expanded scope of an existing prohibition because these cases would be heard in the circuit courts. Expenditures would not be affected.

Small Business Effect: None.

Analysis

Current Law: A person may not manufacture, possess, transport, or place a device that is constructed to represent a destructive device with the intent to terrorize, frighten, intimidate, threaten, or harass.

“Destructive device” means explosive material, incendiary material, or toxic material that is: (1) combined with a delivery or detonating apparatus so as to be capable of inflicting

injury to persons or damage to property; or (2) deliberately modified, containerized, or otherwise equipped with a special delivery, activation, or detonation component that gives the material destructive characteristics of a military ordinance. Destructive device includes a bomb, grenade, mine, shell, missile, flamethrower, poison gas, Molotov cocktail, pipe bomb, and petroleum-soaked ammonium nitrate.

A person who violates this prohibition is guilty of a felony and on conviction is subject to imprisonment not exceeding ten years or a fine not exceeding \$10,000, or both.

In addition to the criminal penalty, a court may order a person convicted or found to have committed a delinquent act under this prohibition to pay restitution to various governmental entities for actual response costs, as well as to the owner or tenant of a property for the actual value of any goods, services, or income lost as a result of an evacuation of the property.

“Toxic material” means material that is capable of causing death or serious bodily injury almost immediately on being absorbed through the skin, inhaled, or ingested. Toxic material includes: (1) nerve gas, mustard gas, cyanide gas, chlorine gas, sulphuric acid, or their precursors; and (2) a biological substance containing a disease organism or microorganism.

Background: This bill is in response to general and specific concerns that have arisen nationally relating to threats of terrorism since September 11, 2001. Generally, State efforts have centered on creating specific statutory crimes for terrorist acts and providing appropriate penalties for making false threats or creating fear.

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

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.

Additional Information

Prior Introductions: In 2002, a similar bill, HB 228, passed the House and had an unfavorable report from the Senate Judicial Proceedings 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 - February 27, 2003
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