

Department of Legislative Services  
Maryland General Assembly  
2004 Session

FISCAL AND POLICY NOTE

House Bill 1150

(Delegate McComas, *et al.*)

Judiciary

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**Crimes - Obstructing or Hindering a Law Enforcement Officer**

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This bill prohibits a person, by act or omission, from obstructing or hindering another person while knowing, or having reason to know, that the other person is performing official duties as a law enforcement officer. A violator is guilty of the misdemeanor of obstructing or hindering a law enforcement officer in the second degree and subject to maximum penalties of imprisonment for one year and/or a fine of \$3,000. A person who intentionally commits this offense is guilty of a felony (first degree) and subject to maximum penalties of imprisonment for 10 years and/or a fine of \$10,000.

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**Fiscal Summary**

**State Effect:** General fund revenues could increase minimally as a result of the bill's monetary penalty provision from cases heard in the District Court. General fund expenditures for correctional costs could also be minimally affected by the bill's imprisonment penalty, but only if incarceration sentencing patterns affecting State facilities change as a result of these provisions.

**Local Effect:** Revenues could increase minimally as a result of the bill's monetary penalty provision from cases heard in the circuit courts. Expenditures for correctional costs could also be minimally affected by the bill's imprisonment penalty, but only if incarceration sentencing patterns affecting local detention facilities change as a result of these provisions.

**Small Business Effect:** None.

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## Analysis

**Current Law:** Obstructing or hindering a law enforcement officer is a common law offense involving resisting or hindering a police officer in the performance of his or her duties. An arrest is not a necessary element of the offense.

The elements of common law prohibitions in Maryland are derived from court decisions. A number of common law offenses currently have no statutory penalty. The only limitation on punishments for common law offenses without statutory penalties is, ordinarily, the prohibition against cruel and unusual punishment contained in the Eighth Amendment to the U.S. Constitution and Articles 16 and 25 of the Declaration of Rights, Constitution of Maryland (as cited in *Simms v. State*, 288 Md. 712 (1980), and *State v. Huebner*, 305 Md. 601 (1986)).

Additional case law indicates that the courts may look to other statutory offenses charged along with the common law offense as guidance to a maximum sentence for a common law offense. In *Gerald v. State*, 299 Md. 138 (1984), the court placed a limit on the maximum penalty for common law assault based on related robbery charges that carried a statutory maximum penalty. The court stated that “the prosecution indicated its acquiescence to a possible maximum sentence” in the charging of the statutory offenses along with the common law offense.

**Background:** In 2003, the Committee to Revise Article 27 recommended a three-year maximum sentence for the common law crime of obstructing or hindering a law enforcement officer in the performance of the officer’s duty because the Commission on Criminal Sentencing Policy has classified the common law crime as a Seriousness Category VI offense and a number of other offenses in this category carry a maximum penalty of three years imprisonment, including escape in the second degree.

To that end, SB 229 and HB 300 of 2003 were introduced to establish a maximum penalty for this common law misdemeanor. Specifically, the bills would have subjected a violator to maximum penalties of a fine of \$3,000 and/or imprisonment for three years. These bills received unfavorable reports from the Senate Judicial Proceedings Committee and House Judiciary Committee, respectively.

In fiscal 2003, the Division of Correction had an intake of two persons convicted of interfering with a police officer, with an average sentence of 25 months.

## **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

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

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mam/jr

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