

**Department of Legislative Services**  
Maryland General Assembly  
2004 Session

**FISCAL AND POLICY NOTE**

Senate Bill 701

(Chairman, Judicial Proceedings Committee  
(By Request – Maryland Judicial Conference)

Judicial Proceedings

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**Criminal Law - Third Degree Assault**

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This bill establishes the crime of third degree assault by providing that it is a misdemeanor to intentionally cause “offensive contact,” engage in conduct tending to put another in fear of offensive contact, or attempt to cause offensive contact. A violator is subject to maximum penalties of imprisonment for 90 days and/or a fine of \$500. Under provisions relating to charging documents for assault, the bill includes reference to the crime of third degree assault and provides that, unless specifically charged by the State, third degree assault is not a lesser included crime of any other crime. A physical injury of a victim of third degree assault is not a defense to the charge.

The bill grants the District Court exclusive original jurisdiction for a charge of third degree assault. The bill also excludes third degree assault from the definition of “abuse” under provisions relating to domestic violence in the Family Law Article.

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**Fiscal Summary**

**State Effect:** Potential minimal increase in general fund revenues and expenditures due to the bill’s penalty provisions. Any increased workload for the District Court would be handled with existing budgeted resources.

**Local Effect:** Potential minimal increase in expenditures due to the bill’s incarceration penalty provision.

**Small Business Effect:** None.

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## Analysis

**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. 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 10 years.

**State Revenues:** General fund revenues could increase minimally as a result of the bill's monetary penalty provision since these cases would 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 increased payments to counties for reimbursement of inmate costs and more people 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 one year or less in a jurisdiction other than Baltimore City are sentenced to a local detention facility. 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 2005 are estimated to range from \$14 to \$58 per inmate depending upon the jurisdiction. 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.

**Local Expenditures:** Expenditures could increase minimally as a result of the bill's incarceration penalty. 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 \$29 to \$97 per inmate in fiscal 2005.

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## Additional Information

**Prior Introductions:** In 2003, a similar bill, HB 732, was introduced, had a hearing before the House Judiciary Committee, and was withdrawn.

**Cross File:** HB 925 (Chairman, Judiciary Committee) (By Request – Maryland Judicial Conference) – Judiciary.

**Information Source(s):** Judiciary (Maryland District Court), Department of Public Safety and Correctional Services (Division of Correction), State Commission on Criminal Sentencing Policy, Department of Legislative Services

**Fiscal Note History:** First Reader - February 20, 2004  
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Analysis by: Guy G. Cherry

Direct Inquiries to:  
(410) 946-5510  
(301) 970-5510