

Department of Legislative Services
Maryland General Assembly
2004 Session

FISCAL AND POLICY NOTE

House Bill 623
Judiciary

(Delegate Lee, *et al.*)

Criminal Law – Stalking – Included Acts

This bill specifies that the course of conduct that defines stalking includes, in addition to approaching or pursuing another: (1) sending mail to another; or (2) communicating with another by the use of a telephone, a telecommunications device, the Internet, or a facsimile machine.

Fiscal Summary

State Effect: Minimal increase in general fund revenues and expenditures due to the bill's broader application of the crime of stalking.

Local Effect: Minimal increase in local revenues and expenditures due to the bill's broader application of the crime of stalking.

Small Business Effect: None.

Analysis

Current Law: Chapter 313 of 2003 expanded 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. As a result, stalking is defined as 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. 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, is exempted. Violators are guilty of a misdemeanor and subject to maximum penalties of five years imprisonment and/or a \$5,000 fine.

Under the State's prohibition against harassment, a person may not follow another in or about a public place or maliciously engage in a course of conduct that alarms or seriously annoys the other: (1) with the intent to harass, alarm, or annoy the other; (2) after receiving a reasonable warning or request to stop by or on behalf of the other; and (3) without a legal purpose. A violator is guilty of a misdemeanor and subject to maximum penalties of imprisonment for 90 days and/or a fine of \$500. This prohibition does not apply to a peaceable activity intended to express a political view or provide information to others.

In *Galloway v. State*, 130 Md. App. 89, 744 A.2d 1070 (2000), aff'd, 365 Md. 599, 781 A.2d 851 (2001), the Court of Appeals held that the evidence was sufficient for a conviction of harassment where the defendant sent a total of 133 letters to a person whom he had previously been convicted of kidnapping and stalking, and where he had been requested repeatedly to stop writing.

Background: This bill is aimed at prohibiting stalking by methods other than "approaching or pursuing another," such as might be done by telephone or over the Internet.

State Revenues: General fund revenues could increase minimally as a result of additional stalking cases being heard in the District Court.

State Expenditures: General fund expenditures could increase minimally as a result of the bill's expansion of the crime of stalking 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 redefined 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.

Persons serving a sentence of one year or less in a jurisdiction other than Baltimore City are sentenced to local detention facilities. 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. 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 DOC facilities. The Baltimore City Detention Center, a State-operated facility, is used primarily for pretrial detentions.

Local Revenues: Revenues could increase minimally as a result of additional stalking cases being heard in the circuit courts.

Local Expenditures: Expenditures could increase minimally as a result of the bill's expansion of the crime of stalking. 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.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): State's Attorneys' Association, Department of Public Safety and Correctional Services (Division of Parole and Probation), Department of Legislative Services

Fiscal Note History: First Reader - March 16, 2004
mam/jr

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