

Department of Legislative Services
Maryland General Assembly
2004 Session

FISCAL AND POLICY NOTE

House Bill 579
Judiciary

(Delegate Nathan-Pulliam, *et al.*)

Criminal Law - Undocumented Immigrants - Preventing Unlawful Detention by Police

This bill prohibits a police officer from: (1) detaining an undocumented immigrant without meeting specified current criteria relating to warrantless arrests; (2) searching for undocumented immigrants for the sole purpose of detaining them; and (3) being required to enforce federal immigration laws.

Fiscal Summary

State Effect: None. The restrictions imposed by this bill on police officers should not have any operational or fiscal impact on any police agencies in the State. However, it is unknown whether these provisions might increase petitions (such as *habeas corpus*) based on the grounds of illegal detention.

Local Effect: The restrictions imposed by this bill on police officers should not have any fiscal impact on any local police agencies.

Small Business Effect: None.

Analysis

Current Law: Under provisions relating to warrantless arrests, a police officer: (1) may arrest a person who commits or attempts to commit a crime in the presence or within view of the officer; (2) who has probable cause to believe a crime is being committed in the presence or within view of the officer may arrest any person reasonably believed by the officer to have committed the crime; and (3) may arrest a person if the officer has

probable cause to believe that a felony has been committed or attempted by that person whether or not in the presence or within the view of the officer.

Maryland law does not currently directly address police detention of undocumented aliens. Some unrelated documentation issues are addressed under the State's Motor Vehicle Law. Chapter 452 of 2003 established a 12-member joint executive-legislative Task Force to Study Driver Licensing Documentation, with the Motor Vehicle Administration providing staff support. The task force must report its findings and recommendations to the Governor and the General Assembly on or before December 1, 2004.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Judiciary (Maryland District Court, Administrative Office of the Courts), Department of State Police, Montgomery County, Harford County, Carroll County, Department of Legislative Services

Fiscal Note History: First Reader - February 16, 2004
lc/jr

Analysis by: Guy G. Cherry

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