

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE
Revised

House Bill 811 (Delegate Doory)
(Committee to Revise Article 27 – Crimes and Punishments)

Judiciary

Judicial Proceedings

Criminal Law - Extortion by Government Officer or Employee - Persons Subject to Offense

This bill expands the category of public sector officers or employees who are included under specified prohibitions against extortion by adding officers and employees of a county board of education, a public authority, or a special taxing district.

The bill also expands a provision permanently barring a person convicted of felony extortion, notwithstanding a pardon, from holding another public sector position in the State by extending the prohibition to officers and employees of a county board of education, a public authority, or a special taxing district.

Fiscal Summary

State Effect: Minimal increase in general fund revenues and expenditures due to the bill's expanded scope.

Local Effect: Minimal increase in local revenues and expenditures due to the bill's expanded scope.

Small Business Effect: None.

Analysis

Current Law: An officer or employee of the State or of a county, municipal corporation, bi-county agency, or multi-county agency may not extort anything of value

under color or pretense of office or official right or by use of actual or threatened force or violence. If the value of the property is \$500 or more, a violator is guilty of a felony and subject to maximum penalties of imprisonment for 10 years and/or a fine of \$5,000. Notwithstanding any pardon, a person convicted of felony extortion shall be barred permanently from employment by the State or by a county, municipal corporation, bi-county agency, or multi-county agency. If the value of the property is less than \$500, a violator is guilty of a misdemeanor and subject to maximum penalties of imprisonment for six months and/or a fine of \$500.

Background: The former Criminal Law Article Review Committee, which was charged with the nonsubstantive revision of the State's criminal law, identified various provisions that appeared to require substantive changes to the existing law. Based on these provisions of the article review committee identified by the term of art "flags" or questions to the General Assembly, the Article 27 committee recommends a series of substantive, yet largely clarifying changes to definitions in provisions dealing with identity fraud, extortion by government officers and employees, and bribery of public officials.

The Committee to Revise Article 27 was appointed in 1991 by the Speaker and the President and charged with making both substantive and stylistic changes to the State's criminal law. The committee is composed of legislators, judges, lawyers representing both defendants and the State, and a victims' rights representative. In past sessions the committee has successfully sponsored legislation to revise the laws on accessory before and after the fact, arson, assault, benefit of clergy, burglary, destructive devices, disorderly conduct, escape, leased or rented goods, Medicaid fraud, offensive contact, prostitution, robbery, sabotage, trespass, and victims' rights.

State Revenues: General fund revenues could increase minimally as a result of the bill's expanded scope from cases heard in the District Court.

State Expenditures: General fund expenditures could increase minimally as a result of the bill's increased incarceration penalties due to more people being committed to Division of Correction (DOC) facilities for longer periods of time and increased payments to counties for reimbursement of inmate costs. The number of people convicted of these crimes 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 \$310 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 2006 are estimated to range from \$17 to \$65 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 the bill's increased monetary penalty provision from cases heard in the circuit courts.

Local Expenditures: Expenditures could increase minimally as a result of the bill's increased incarceration penalties. 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 \$33 to \$119 per inmate in fiscal 2006.

Additional Information

Prior Introductions: None.

Cross File: SB 386 (Senators Stone and Giannetti) (Committee to Revise Article 27 – Crimes and Punishments) – Judicial Proceedings.

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

Fiscal Note History: First Reader - February 17, 2005
ncs/jr Revised - House Third Reader - March 25, 2005

Analysis by: Guy G. Cherry

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

