

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE

House Bill 2
Judiciary

(The Speaker, *et al.*)

Judicial Proceedings

Law Enforcement Officer Protection Act

This bill establishes a crime of felony second degree assault, which prohibits a person from intentionally causing or attempting to cause physical injury to another person knowing or having reason to know that the other person is a law enforcement officer engaged in the performance of official duties. A violator is subject to maximum penalties of imprisonment for 15 years and/or a fine of \$5,000.

The bill gives the District Court concurrent jurisdiction with a circuit court for this offense.

Fiscal Summary

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

Local Effect: Minimal increase in revenues and expenditures due to the bill's penalty provisions.

Small Business Effect: None.

Analysis

Current Law: There is no prohibition specifically addressing assault on law enforcement officers. Such assaults are prosecuted under nonvictim-specific assault provisions.

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.

Background: According to the FBI's *Uniform Crime Reports*, data reported by 10,141 law enforcement agencies nationwide covering more than 74.3% of the total U.S. population showed that in 2003 57,841 assaults were committed against law enforcement officers while they were performing their duties. FBI trend data for 2003 showed that the assault rate has not changed considerably from the 2002 and 1994 data. The 2003 assault rate was 12 assaults per 100 officers, a 1.2% decrease from the assault rate in 2002 and a 1% decrease from the assault rate in 1999.

In Maryland, a total of 3,742 law enforcement officers were assault victims in the line of duty in 2003. That represents almost a 7.8% decrease in such assaults from the prior year (4,035 in 2002). The rate of assaults on law enforcement officers for the State was the 25 assaults per 100 sworn officers in 2003 (down from 27 per 100 sworn officers in 2002).

Of all such assaults, 96 instances involved the use of a firearm. Physical force was used in 84% of all such assaults in 2003. The greatest number occurred while the officers were responding to disturbance calls (31%), and between the hours of 10:00 p.m. and 2:00 a.m. (29%). Personal injury to the officer occurred in 542 instances (down from 714 in 2002).

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

State Expenditures: General fund expenditures could increase minimally as a result of the bill's incarceration penalty due to people being committed to Division of Correction (DOC) facilities for longer periods of time and increased payments to counties for reimbursement of inmate costs. In 2003, DOC had an intake of only one offender convicted of first degree assault where the victim was a police officer. That person had been sentenced to 42 months. However, the provisions of this bill would tend to increase the number of people prosecuted for assault against a law enforcement officer. The number of persons who would be convicted of this proposed crime cannot be estimated with certainty.

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.

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 monetary penalty provision from cases heard in the circuit courts.

Local Expenditures: Expenditures could increase minimally as a result of the bill's incarceration penalty in only those instances when an offender is sentenced to a term of less than 18 months and directed to serve that sentence at a local correctional facility. 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: HB 60 of 2004, a similar bill, had a hearing before the Judiciary Committee and no further action taken on it. In 2003, SB 369 and HB 68 passed both houses, went to conference committee, and had no further action taken on them. Also in 2003, SB 177 received an unfavorable report from the Judicial Proceedings Committee. Other bills addressing assault against a law enforcement officer were introduced in 1999, 2000, and 2002. HB 956 of 1999, HB 67 and HB 235 of 2000, and HB 1414 of 2002 each received an unfavorable report from the House Judiciary Committee. SB 336 of 2000 was withdrawn.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts), Department of Public Safety and Correctional Services, Department of Legislative Services

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Analysis by: Guy G. Cherry

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