

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE

Senate Bill 55

(Senator Green, *et al.*)

Judicial Proceedings

Judiciary

False, Fictitious, or Fraudulent Representations to Legislative Branch Units

This bill provides that it is a misdemeanor to make a false statement, conceal a material fact, or make a false representation to a “unit” of the Legislative Branch of the State government. The bill applies only to a hearing or other proceeding that is required to be recorded by the rules of the House or Senate. Violators are subject to maximum penalties of a fine of \$1,000 and/or imprisonment for one year.

Fiscal Summary

State Effect: Potential minimal increase in general fund revenues and expenditures due to the bill’s penalty provisions.

Local Effect: Potential minimal increase in revenues and expenditures due to the bill’s penalty provisions.

Small Business Effect: None.

Analysis

Bill Summary: Specifically, the bill prohibits a person, in any matter within the jurisdiction of a legislative “unit,” from knowingly and willfully: (1) falsifying or concealing a material fact; (2) making a false, fictitious, or fraudulent representation; or (3) making or using a document that contains a false, fictitious, or fraudulent representation.

“Unit” is defined to include: (1) all standing committees and their subcommittees; (2) all legislative committees created by statute and their subcommittees; (3) the Legislative Policy Committee and any special committee appointed by it; and (4) any other task force or committee appointed by the Legislative Policy Committee or the presiding officer of the House or Senate.

Current Law: There is no specific offense of making a false representation to a unit of the Legislative Branch. However, a similar restriction applicable to lobbyists was enacted by Chapter 631 of 2001. Under that provision, it is a violation of the ethics law for a lobbyist to knowingly make a statement of material fact relating to lobbying activity to an official or government employee that the lobbyist knows to be false. Violators are guilty of a misdemeanor and subject to maximum penalties of a fine of \$10,000 and/or imprisonment for one year.

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 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.

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 monetary penalty provision from cases heard in the circuit courts.

Local Expenditures: Expenditures could increase as a result of the bill's incarceration penalty. Counties pay the full cost of incarceration 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: Similar bills were introduced in 2000, 2001, 2002, and 2003. In 2002 and 2003, SB 80 and SB 26, respectively, passed the Senate and received an unfavorable report from the House Judiciary Committee. In 2002, SB 80 passed the Senate and received an unfavorable report from the House Judiciary Committee. In 2001, SB 40 passed the Senate and was referred to the House Rules and Executive Nominations Committee with no further action taken on it. HB 873 was referred to the House Rules and Executive Nominations Committee and had no further action taken on it. In 2000, SB 294 was withdrawn and HB 88 received an unfavorable report from the House Commerce and Government Matters Committee. It is also noted that similar bills have been introduced over many years prior to the 2000 session.

Cross File: None.

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

Fiscal Note History: First Reader - January 21, 2005
ncs/jr

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