

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE

House Bill 956

(Delegate Petzold, *et al.*)

Judiciary

Crimes - False Report Activating "AMBER" Alert - Immunity for Media

This bill specifically exempts a broadcast media organization or its employees from civil liability for any act or omission in broadcasting information relating to the activation of an AMBER Alert. In addition, under provisions relating to making false reports to law enforcement, the bill prohibits a person from making a statement, report, or complaint causing an AMBER Alert to be activated. A violator is guilty of a misdemeanor and subject to maximum penalties of imprisonment for one year and/or a fine of \$2,000.

Fiscal Summary

State Effect: Minimal increase in general fund revenues and expenditures due to the bill's penalty provisions. The bill's civil liability exemption for the broadcast media should not affect State operations or finances.

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

Small Business Effect: None.

Analysis

Current Law: The AMBER Alert Plan in Maryland is a voluntary partnership between law enforcement agencies and broadcasters to activate an urgent bulletin in the most serious child abduction cases. Broadcasters use the Emergency Alert System, formerly called the Emergency Broadcast System, to air a description of the abducted child and

suspected abductor. This is the same concept used during severe weather emergencies. AMBER Alert information is coordinated by the Maryland State Police.

Section 9-501 of the Criminal Law Article prohibits a person from making, or cause to be made, a statement, report, or complaint that the person knows to be false as a whole or in material part, to a law enforcement officer of the State, a political subdivision, or the Maryland-National Capital Park and Planning Police with intent to deceive and to cause an investigation or other action to be taken as a result of the statement, report, or complaint. 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 original AMBER Plan was established in 1996, with 116 modified versions adopted at local, regional, and statewide levels, as well as in Canada. In August 2002, Maryland became an AMBER Alert state. Currently, 49 states use such systems to help find abducted children.

The alerts, named after nine year old Amber Hagerman who was kidnapped and killed while riding her bicycle in Arlington, Texas, rely on the use of highway message boards as well as television and radio stations to broadcast the messages. They are issued when police believe that a child is in danger of serious bodily harm or death and have descriptive information about the child and suspect. The AMBER Alert system is credited with the rescue of at least 188 children since the program was begun.

There are certain criteria that must be met before an AMBER Alert is activated, including:

- law enforcement must confirm a child has been abducted;
- law enforcement must have reason to believe the circumstances surrounding the abduction indicate the child is in danger of serious bodily harm or death; and
- there must be enough descriptive information about the child, abductor, and/or the suspect's vehicle to believe an immediate broadcast alert will help the case.

According to Maryland's AMBER Alert Plan, when the abduction of a child of 14 or under (or 15-17 with extenuating circumstances) occurs, police officers responding to the call will contact a State Police duty officer trained to handle such cases. After verifying the abduction meets the AMBER Alert criteria, the State Police activate the Emergency Alert System, notifying radio, television and cable outlets, the Maryland Department of Transportation, and surrounding states.

According to the State Police, since 2002, there have been nine AMBER Alert activations in Maryland, and two involved false reports. According to the National Center for Missing and Exploited Children, the bill is believed to be the first of its kind nationally, whereby the false report offense is directly connected with the activation of an AMBER Alert.

Chapter 528 of 2004 established a Task Force on Missing Vulnerable Adults to, in part, investigate integration with AMBER Alert in Maryland and the broadcast media in locating missing vulnerable adults. The final report of the task force is required by October 31, 2005.

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.

Generally, persons serving a sentence of one year or less in a jurisdiction other than Baltimore City are sentenced to a local detention facility. 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 a DOC facility. Currently, DOC average total cost per inmate, including overhead, is estimated at \$1,850 per month. The 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.

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: None.

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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