

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 47

(Senator Miller, *et al.*)

Judicial Proceedings

Judiciary

Law Enforcement Officer Protection Act

This bill establishes a crime of felony second degree assault, which prohibits a person from intentionally causing physical injury to another knowing or having reason to know that the other is a “law enforcement officer” engaged in the performance of official duties. A violator is subject to maximum penalties of imprisonment for 10 years and/or a fine of \$5,000.

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’ imprisonment. 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*, in 2003, 57,841 assaults were committed against law enforcement officers while they were performing their duties, and 16,339 officers suffered injuries as a result of these attacks. Assaults on officers were most often committed with personal weapons (hands, fists, feet, etc.), used in 81% of the attacks. Firearms were used in 3.2% of assaults on law enforcement officers, knives or cutting instruments in about 2%, and other dangerous weapons were used in nearly 14% of assaults on officers.

In Maryland, a total of 3,742 law enforcement officers were assault victims in the line of duty in 2003. That represents a 7.3% decrease in such assaults from the prior year (4,035 in 2002). The 2003 rate of assaults on law enforcement officers for the State was 25 per 100 sworn officers, down from 27 per 100 in 2001 and 2002.

Of all such assaults, 96 instances involved the use of a firearm and physical force was used in 84%. The greatest number occurred while 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 an officer occurred in 542 instances.

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. One person was convicted of a first degree assault against a law enforcement officer in fiscal 2002 (with a sentence of 42 months) and one in fiscal 2003 (with a sentence of 188 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. 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.

The extent to which the bill's penalty provisions may lengthen the time the offender will be under the supervision of the Division of Parole and Probation cannot be reliably quantified. However, such a potential increase is assumed to be minimal.

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: In 2004, SB 28 received a favorable report from the Judicial Proceedings Committee, but was recommitted to the committee and had no further action taken on it.

Cross File: None.

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

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