

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE

House Bill 18
Judiciary

(Delegate Benson)

Crimes - Felony - Stalking

This bill makes the crime of “stalking” a felony rather than a misdemeanor. The current law penalties for the offense are not changed.

Fiscal Summary

State Effect: Potential minimal decrease in general fund revenues stemming from a shift of stalking offense cases from the District Court to the circuit courts. General fund expenditures for incarceration costs should not be affected.

Local Effect: Potential minimal increase in local revenues from a shift of such cases from the District Court to the circuit courts. Local expenditures for incarceration costs should not be affected.

Small Business Effect: None.

Analysis

Current Law: Chapter 313 of 2003 expanded the elements of the crime of stalking beyond requiring the intent of placing a victim in fear to include reasonable knowledge that one’s actions would place the victim in fear. As a result, stalking is defined as a malicious course of conduct that includes approaching or pursuing another where the person intends to place or knows or reasonably should have known the conduct would place another in reasonable fear of serious bodily injury, assault, rape or sexual offense (including attempted acts), false imprisonment, or death, or that a third person likely will suffer any of these acts. Conduct performed to ensure compliance with a court order or

carry out a lawful commercial purpose, or otherwise authorized by local, State, or federal law, is exempted. Violators are guilty of a misdemeanor and subject to maximum penalties of five years imprisonment and/or a \$5,000 fine.

Generally, with certain statutory exceptions, misdemeanor offenses are heard in the District Court and felony offenses in the circuit courts. A prosecution may be brought either in the District Court or the circuit courts at the discretion of a prosecutor, if the penalty is confinement for at least three years or a fine of at least \$2,500. All jury trials are heard in the circuit courts.

Background: Changing crimes from misdemeanors to felonies means: (1) that such cases will likely be filed in the circuit courts rather than the District Court; and (2) some persons could eventually serve longer incarcerations due to enhanced penalty provisions, applicable to some offenses, for prior felony convictions. It is not known whether, under this bill's provisions, the prospect of a jury trial might spur more plea bargains and affect actual sentencing practices for this offense. In any case, this bill would shift some unknown number of cases from the District Court to the circuit courts.

Additional Information

Prior Introductions: None.

Cross File: None.

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

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mam/jr

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