

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE

House Bill 578
Judiciary

(Delegate Kelly, *et al.*)

Criminal Law - Identification to Police Officer

This bill authorizes a police officer to briefly detain persons whom the officer reasonably believes has committed, is committing, or is about to commit a crime to ascertain their identities and the circumstances surrounding the person's presence in the area. The bill prohibits a person from withholding their identity from a police officer.

Fiscal Summary

State Effect: None. The change is procedural in nature and would not directly affect judicial operations or expenditures.

Local Effect: None – see above.

Small Business Effect: None.

Analysis

Bill Summary: A police officer may detain a person under circumstances that reasonably indicate that the person has committed, is committing, or is about to commit a crime. A person may only be detained to ascertain their identity and the circumstances surrounding the person's presence where encountered by the police.

A police officer may not detain a person longer than is reasonably necessary to ascertain their identity and in no event for longer than 60 minutes.

The detention may not extend beyond the immediate vicinity of where the detention was first affected, unless the person is arrested.

A person may not withhold the person's identity from a police officer. A violator is guilty of a misdemeanor and subject to maximum penalties of 30 days imprisonment, a \$500 fine, or both.

Current Law: *Terry v. Ohio*, 392 U.S. 1, a 1968 Supreme Court case, gave police the right to temporarily detain someone if there are specific facts leading a reasonable police officer to believe a crime might be occurring (reasonable suspicion). It is not necessary for the officer to articulate or identify a specific crime the officer thinks is being committed, only that a set of factual circumstances exist that would lead a reasonable officer to believe that criminal activity is occurring.

Police officers are free to ask persons for identification without violating their rights under the Fourth Amendment.

Background: The Supreme Court has held in several cases that officers may request identification in *Terry* stop situations; the Court's most recent decision came in a June 2004 case, *Hiibel v. Sixth Judicial District Court of Nevada, Humboldt County*. Hiibel was arrested and convicted in a Nevada court for refusing to identify himself to a police officer during an investigative stop involving an assault. Nevada's "stop and identify" statute requires a person detained by an officer under suspicious circumstances to identify himself. The Supreme Court affirmed his conviction, holding that "[T]he request for identity has an immediate relation to the purpose, rationale, and practical demands of a *Terry* stop. A state law requiring a suspect to disclose his name in the course of a valid *Terry* stop is consistent with Fourth Amendment prohibitions against unreasonable searches and seizures."

Twenty states currently have "stop and identify" statutes: Alabama, Arkansas, Colorado, Delaware, Florida, Georgia, Illinois, Kansas, Louisiana, Missouri, Montana, Nebraska, Nevada, New Hampshire, North Dakota, Rhode Island, Utah, Virginia, Vermont, and Wisconsin.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): State's Attorneys' Association, Judiciary (Administrative Office of the Courts), Department of State Police, Department of Legislative Services

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