

Department of Legislative Services
Maryland General Assembly
2006 Session

FISCAL AND POLICY NOTE
Revised

House Bill 850

(Delegates James and Cadden)

Judiciary

Judicial Proceedings

Crimes - Burial, Memorial Service, Funeral, or Funeral Procession

This bill prohibits a person from: (1) knowingly obstructing, hindering, impeding, or blocking another person's entry to or exit from a funeral, burial, memorial service, or funeral procession; (2) addressing speech to a person attending such a gathering that is likely to incite or produce an imminent breach of the peace; or (3) engaging in picketing activity, within 100 feet of the gathering, targeted at one or more persons in attendance. A violator is guilty of a misdemeanor and subject to maximum penalties of imprisonment for 90 days and/or a fine of \$1,000.

Fiscal Summary

State Effect: Potential minimal increase in general fund revenues and expenditures due to the bill's penalty provisions. The number of people convicted of this proposed crime is expected to be minimal.

Local Effect: Potential minimal increase in local expenditures due to the bill's incarceration penalty provision.

Small Business Effect: Minimal.

Analysis

Current Law: Prohibitions against disturbing the peace and disorderly conduct include prohibitions against: (1) obstructing or hindering the free passage of another in a public place (or on a public conveyance); (2) entering the land or premises of another and willfully disturbing the peace of others by making an "unreasonably loud noise" or acting

in a disorderly manner; or (3) from any location, disturbing the peace of another on the other's land or premises or in a public place by making an unreasonably loud noise.

Under U.S. case law, "fighting words" are inflammatory speech that is not protected by the First Amendment's free-speech guarantee because it might incite a violent response. However, a statutory prohibition on fighting words may be void for vagueness if it is not specific.

Background: Several states and local jurisdictions have introduced or enacted similar criminal prohibitions in response to recent organized protests at funeral services for persons killed in the war in Iraq, addressing issues deemed unrelated to the war.

State Revenues: General fund revenues could increase minimally as a result of the bill's monetary penalty provision since these cases would likely be heard in the District Court.

State Expenditures: General fund expenditures could increase minimally as a result of the bill's incarceration penalty people being committed to Division of Correction (DOC) facilities, but only to the extent that the convictions would occur in Baltimore City. Currently, the average total cost per inmate in a DOC facility, including overhead, is estimated at \$1,974 per month. Excluding overhead, the average cost of housing a new DOC inmate (including medical care and variable costs) is \$341 per month. Excluding medical care, the average variable costs total \$134 per month. The Baltimore City Detention Center, a State-operated facility, is used primarily for pretrial detentions.

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 2007.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Judiciary (District Court), Department of Public Safety and Correctional Services, Department of Legislative Services

Fiscal Note History: First Reader - February 21, 2006
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Analysis by: Guy G. Cherry

Direct Inquiries to:
(410) 946-5510
(301) 970-5510