

Department of Legislative Services  
Maryland General Assembly  
2006 Session

FISCAL AND POLICY NOTE

House Bill 152

(Delegate Kelly)

Judiciary

Judicial Proceedings

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Assault Against a Law Enforcement Officer - Bodily Fluids

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This bill includes assault on another person by use of bodily fluids under provisions prohibiting second degree assault as a felony offense. A violator is subject to maximum penalties of imprisonment for 10 years and/or a fine of \$5,000.

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Fiscal Summary

**State Effect:** Minimal increase in general fund revenues and expenditures due to the bill's penalty provisions.

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

**Small Business Effect:** None.

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Analysis

**Current Law:** A person may not commit an assault. A violator is guilty of the misdemeanor of second degree assault and subject to maximum penalties of imprisonment for 10 years and/or a fine of \$2,500. Assault means the crimes of assault, battery, and assault and battery.

A person may not intentionally cause physical injury to another if the person knows or has reason to know that the other is a law enforcement officer engaged in the performance of the officer's official duties. "Physical injury" means any impairment of physical condition, excluding minor injuries. A violator is guilty of the felony of second

degree assault and subject to maximum penalties of imprisonment for 10 years and/or a fine not exceeding \$5,000.

A charge of assault in the first degree also charges a defendant with assault in the second degree.

An inmate may not maliciously cause or attempt to cause an employee of a State correctional facility, a local correctional facility, or a sheriff's office, regardless of employment capacity, to come into contact with: (1) seminal fluid, urine, or feces; or (2) blood, if the contact with the blood is not the result of physical injury resulting from physical body contact between the inmate and the employee. A violator is guilty of a misdemeanor and subject to maximum penalties of a fine of \$2,500 and/or imprisonment for 10 years. A sentence imposed under this provision may not be suspended and must be consecutive to any sentence that the inmate was serving at the time of the crime or that had been imposed but was not yet being served at the time of sentencing.

Chapter 318 of 2004 prohibits a person from knowingly and willfully causing another to ingest bodily fluid without consent or by force or threat of force. A violator is guilty of a misdemeanor and subject to maximum penalties of imprisonment for 10 years and/or a fine of \$2,500. Bodily fluid is defined as seminal fluid, blood, urine, or feces.

**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 more people being committed to Division of Correction (DOC) facilities and increased payments to counties for reimbursement of inmate costs. The number of people convicted of this proposed crime is expected to be minimal.

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 \$1,974 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 \$341 per month. Excluding medical care, the average variable costs total \$134 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 2007 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.

**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. 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 2007.

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### **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

**Fiscal Note History:** First Reader - March 2, 2006  
ncs/jr

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