Department of Legislative Services

Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE

Senate Bill 250 (Senator Stone)
(By Request – Committee to Revise Article 27 – Crimes and Punishments)
Judicial Proceedings Judiciary

Criminal Law - Forgery of Signature and Counterfeit Documents - Prohibition

This bill • expands and clarifies the prohibition against counterfeiting public documents; • establishes a new offense against forging, falsifying, or counterfeiting the signature of court officers or employees or using the forged, falsified, or counterfeited documents; and • establishes penalties.

Fiscal Summary

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

Local Effect: Potential minimal increase in revenues and expenditures due to the bill's penalty provisions.

Small Business Effect: None.

Analysis

Bill Summary: This bill removes the element of "intent to defraud another" from the offense of counterfeiting, causing to be counterfeited, or willingly aiding in the counterfeiting of a commission, patent, or pardon. The bill also adds orders for release or other court documents to this expanded offense. In addition, a person is prohibited from writing, signing, or possessing a counterfeit • commission, patent, pardon, order for release, or other court document; or • warrant, certificate, or other public security from which money may be drawn from the State treasury. A violator is guilty of a felony and is subject to a penalty of imprisonment for at least 2 years and up to 10 years.

The bill also prohibits a person from • forging, falsifying, or counterfeiting the signature of a judge, court officer, or court employee of the State; or • using a document with the forged, falsified, or counterfeit signatures of these individuals while knowing that the signature is forged, falsified, or counterfeit. A violator is guilty of a misdemeanor and is subject to a maximum penalty of five years imprisonment and/or a $10,000 fine. A violator is also subject to prosecution at any time, notwithstanding any other provision of law. A person convicted of this offense is deemed to have committed a misdemeanor with the punishment of confinement in the penitentiary and may reserve a point or question for *in banc* review as provided by the Maryland Constitution.

Current Law: A person, with intent to defraud another, may not counterfeit, cause to be counterfeited, or willingly aid in counterfeiting a commission, patent, pardon, or a warrant, certificate, or other public security from which money may be drawn from the State treasury. A person, with intent to defraud another, may not print, write, sign, or pass a counterfeit warrant, certificate, or public security if the person knows that the document was counterfeited. A violator is guilty of a felony and is subject to imprisonment for at least 2 and up to 10 years.

Background: This bill incorporates recommendations from the Committee to Revise Article 27 of the Annotated Code of Maryland – Crimes and Punishments and includes recommendations from the former Criminal Law Article Review Committee. The former Criminal Law Article Review Committee, which was charged with the nonsubstantive revision of the State's criminal law, identified various provisions that appeared to require substantive changes to the existing law. Based on these provisions of the article review committee identified by "flags" or questions to the General Assembly, the Article 27 committee recommends a series of substantive, yet largely clarifying changes to definitions in provisions dealing with bribery of public officials, as well as forgery and counterfeiting offenses, and extortion by government officers and employees.

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 penalties due to more people being committed to Division of Correction (DOC) and increased payments to counties for reimbursement of inmate costs. The number of people convicted of the expanded crime and the proposed crime are 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 $2,600 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 $526 per month. Excluding medical care, the average variable costs total $148 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 2009 are estimated to range from $19 to $71 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 penalties. 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 $40 to $129 per inmate in fiscal 2009.

Additional Information

Prior Introductions: None.

Cross File: HB 550 (Delegate Rosenberg) (By Request – Committee to Revise Article 27 - Crimes and Punishments) – Judiciary.

Information Source(s): Judiciary (Administrative Office of the Courts), Department of Public Safety and Correctional Services, Department of Legislative Services

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