

Department of Legislative Services
Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE

House Bill 1191

(Delegate DeBoy, *et al.*)

Judiciary

Criminal Law - Impersonation of a Police Officer - Penalties

This bill changes the crime of impersonating a police officer from a misdemeanor to a felony and increases the maximum applicable penalties from imprisonment for two years and/or a fine of \$2,000 to imprisonment for five years and/or a fine of \$5,000.

Fiscal Summary

State Effect: Potential minimal increase in State correctional costs due to more persons being sentenced to a State correctional facility rather than a local facility. General fund revenues could decrease minimally as a result of some shifting of cases from the District Court to the circuit courts.

Local Effect: Potential minimal decrease in local correctional costs due to more persons being sentenced to a State correctional facility rather than a local facility. Local revenues could increase minimally as a result of some shifting of cases from the District Court to the circuit courts.

Small Business Effect: None.

Analysis

Current Law: A person may not, with fraudulent design on person or property, falsely represent themselves to be a police officer, special police officer, sheriff, deputy sheriff, or constable. With a certain exception, a person may not have, use, wear, or display a uniform, shield, button, ornament, badge, identification, or shoulder patch adopted by the Department of State Police to be worn by its members, insignia, or emblem of office, as

is worn by a police officer, sheriff, deputy sheriff, or constable. In addition, a person may not, for the purpose of deception, have a simulation or imitation of such an insignia or emblem, or use, wear, or display such an article without the appropriate authority of specified State, local, or federal law enforcement entities.

A violator is guilty of a misdemeanor and subject to maximum penalties of imprisonment for two years and/or a fine of \$2,000.

Background: Chapter 167 of 2004 increased the maximum penalties for this offense from imprisonment for six months and/or a fine of \$100 to the current levels.

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 the 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, the bill would shift some unknown number of cases from the District Court to the circuit courts and would also result in fewer *de novo* appeals being taken from the District Court to the circuit courts.

State Expenditures: General fund expenditures could increase minimally as a result of the bill's incarceration penalty due to more people being committed to DOC facilities and increased payments to counties for reimbursement of inmate costs. The number of people convicted of these proposed crimes 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 \$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 Expenditures: Expenditures could decrease 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 \$40 to \$129 per inmate in fiscal 2009.

Additional Information

Prior Introductions: None.

Cross File: SB 316 (Senator Robey, *et al.*) – Judicial Proceedings.

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

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