

Department of Legislative Services
Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE

House Bill 324

(Delegate Stukes, *et al.*)

Judiciary

Criminal Law - Assault Against a Transit Vehicle Operator - Penalties

This bill establishes that intentionally causing or attempting to cause serious physical injury to a person operating a “transit vehicle,” or committing an assault with a firearm on such a person, is felony first degree assault. A violator is subject to a 20-year mandatory minimum, nonsuspendable, nonparolable term of imprisonment. Under provisions governing second degree felony assault, the bill also prohibits a person from intentionally causing physical injury to another if the other person is operating a transit vehicle. A violator is guilty of second degree felony assault.

Fiscal Summary

State Effect: Minimal increase in general fund revenues and expenditures due to the bill’s expanded scope and mandatory minimum incarceration penalty provisions.

Local Effect: Minimal increase in local revenues and expenditures due to the bill’s expanded scope and applicable penalty provisions.

Small Business Effect: None.

Analysis

Current Law: Under the State’s prohibition against first degree assault, a person may not intentionally cause or attempt to cause serious physical injury to another. A person may not commit an assault with a firearm. A violator is guilty of the felony of first degree assault and subject to imprisonment for up to 25 years.

The felony of second degree assault occurs when a person intentionally causes physical injury to another knowing or having reason to know that the other person is a “law enforcement officer” engaged in the performance of the officer’s official duties. A violator is subject to maximum penalties of imprisonment for 10 years and/or a fine of \$5,000. Physical injury means any impairment of physical condition, excluding minor injuries. The term “law enforcement officer” includes a correctional officer at a correctional facility.

Under § 7-101 of the Transportation Article, the term “transit vehicle” means a mobile device used in rendering transit service, which is defined as the transportation of persons and their packages and baggage and of newspapers, express, and mail in regular route, special, or charter service by means of transit facilities between points within the Metropolitan Transit District. That district consists of Baltimore City, Baltimore County, Anne Arundel County, and other areas so designated, as specified, subject to the provisions of the Washington Metropolitan Transit Authority Compact. The district may also include any area in which railroad service is performed under contract with MTA or in which railroad facilities are owned by MTA. Transit service does not include any taxicab service, vanpool operation, or railroad service.

Background: Recent reports of rowdy and criminal behavior on transit vehicles in the Baltimore area, including personal assaults, has given rise to personal safety and property concerns related to such circumstances.

Three transit organizations that operate in Maryland have sworn police officers: the Maryland Transit Administration (MTA), the Washington Metropolitan Area Transit Authority (WMATA), and Amtrak. None of the State’s 24 locally operated transit systems have police agencies. They rely on local police departments and to some extent the Maryland State Police for law enforcement on transit vehicles.

MTA Police handle the majority of arrests on MTA transit vehicles. MTA has also signed memoranda of understanding with Baltimore City, Baltimore County, and Anne Arundel County providing for concurrent jurisdiction between the MTA Police and the local police agencies in those jurisdictions.

According to MTA, the bill’s definition of “transit vehicle” would not cover drivers of locally operated transit buses, or drivers of WMATA buses or trains.

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 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 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 \$40 to \$129 per inmate in fiscal 2009.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Anne Arundel County, Maryland Department of Transportation (Maryland Transit Administration), Commission on Criminal Sentencing Policy,

Baltimore City, Department of Public Safety and Correctional Services, Department of Legislative Services

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