

Department of Legislative Services
Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE

Senate Bill 224

(Senator Glassman)

Judicial Proceedings

Law Enforcement Officer and Emergency Responder Protection Act of 2008

This bill prohibits a person from intentionally causing physical injury to another if the person knows or has reason to know that the other is a firefighter, rescue squad member, or emergency services responder engaged in fighting a fire, performing emergency services, or proceeding to a fire or other emergency. A violator is guilty of second degree felony assault. The bill increases the maximum penalty for second degree felony assault (as applicable when there is a victim covered under the bill, as well as to when the victim is a law enforcement officer engaged in the performance of the officer's official duties) from imprisonment for 10 years and/or a fine of \$5,000 to imprisonment for 15 years and/or a fine of \$10,000.

Fiscal Summary

State Effect: Potential minimal increase in general fund expenditures due to the bill's expanded application of second degree felony assault and its increased incarceration penalty provision. Revenues should not be affected.

Local Effect: Potential minimal increase in local revenues due to the bill's expanded application of second degree felony assault and its increased monetary penalty provision. Expenditures should not be affected.

Small Business Effect: None.

Analysis

Current Law: 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. Physical injury means any impairment of physical condition, excluding minor injuries. Under §3-101(e)(1) of the Public Safety Article, "law enforcement officer" means an individual who, in an official capacity, is authorized by law to make arrests and who is a member of one of the following law enforcement agencies:

- the Department of State Police;
- the Police Department of Baltimore City;
- the Baltimore City School Police Force;
- the Baltimore City Watershed Police Force;
- a county police department, bureau, or force;
- a municipal police department, bureau, or force;
- a county sheriff's office;
- a bicounty agency's police department, bureau, or force;
- the Maryland Transportation Authority Police;
- the police forces of the Maryland Department of Transportation;
- the police forces of the Department of Natural Resources;
- the Field Enforcement Bureau of the Comptroller's Office;
- the Housing Authority of Baltimore City Police Force;
- the Crofton Police Department;
- the police force of the Department of Health and Mental Hygiene;
- the police force of the Department of General Services;
- the police force of the Department of Labor, Licensing, and Regulation;
- the police forces of the University System of Maryland;
- the police force of Morgan State University;
- the Office of State Fire Marshal;
- the Ocean Pines Police Department; or
- the police force of the Baltimore City Community College.

The term includes a correctional officer at a correctional facility.

Background: According to the most recent Uniform Crime Report, between 2002 and 2006 there were an average of 708 annual assaults on law enforcement officers that resulted in a physical injury to the officer. It is unknown how many of these assault reports resulted in a charge of second degree felony assault under the current provisions. According to the Department of Public Safety and Correctional Services, in fiscal 2007, there was an intake of approximately 18 persons convicted of assault of a law enforcement officer (as a unique offense). Most of those cases involved a correctional officer victim.

There are an estimated 33,000-35,000 firefighters, rescue squad workers, and emergency services responders in the State. Approximately 75% of the firefighters are volunteers.

State Expenditures: General fund expenditures could increase minimally as a result of the bill's expanded coverage and increased incarceration penalty due to more people being committed to Division of Correction (DOC) facilities for longer periods of time. 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 \$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 increased monetary penalty provision from cases heard in the circuit courts.

Additional Information

Prior Introductions: None.

Cross File: HB 24 (Delegate Manno) – Judiciary.

Information Source(s): Department of Public Safety and Correctional Services, State's Attorneys Association, Department of Legislative Services

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mll/jr

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