

Department of Legislative Services  
Maryland General Assembly  
2008 Session

FISCAL AND POLICY NOTE  
Revised

House Bill 917  
Judiciary

(Delegate Ramirez, *et al.*)

Judicial Proceedings

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Criminal Law - Offensive Physical Contact

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This bill prohibits a person from (1) intentionally causing minor offensive physical contact of a nonsexual nature to an adult; (2) engaging in conduct intending to put an adult in fear of minor offensive physical contact of a nonsexual nature; or (3) attempting to cause minor offensive physical contact of a nonsexual nature to an adult. Under current law prohibitions against disorderly conduct, a violator is guilty of a misdemeanor and subject to maximum penalties of imprisonment for 60 days and/or a fine of \$500.

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Fiscal Summary

**State Effect:** Potential minimal increase in general fund revenues and expenditures due to the bill's penalty provisions. Any increased workload for the District Court would be handled with existing budgeted resources.

**Local Effect:** Potential minimal increase in expenditures due to the bill's incarceration penalty provision.

**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, including a correctional 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 of \$5,000.

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.

**Background:** The State Commission on Criminal Sentencing Policy reports that the State sentencing guidelines database reports a total of 470 convictions of first degree assault and 1,351 convictions of second degree assault in fiscal 2007. The District Court reports that 10,321 cases of first degree assault and 1,294 cases of second degree assault were filed during calendar 2007. However, it is not know how many of the circuit court convictions or District Court filings during those respective periods would have, under the bill, led to a charge or conviction of only simple assault rather than first or second degree assault.

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

Generally, persons serving a sentence of one year or less in a jurisdiction other than Baltimore City are sentenced to a local detention facility. 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 a DOC facility. Currently, the DOC 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.

**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.

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### **Additional Information**

**Prior Introductions:** Similar bills (to establish a crime of offensive conduct) were introduced in 2005. HB 809 was withdrawn and SB 349 received an unfavorable report from the Senate Judicial Proceedings Committee. Similar bills (to establish a crime of third degree assault) were introduced in 2004. SB 701 received an unfavorable report from the Judicial Proceedings Committee. HB 925 received an unfavorable report from the Judiciary Committee.

**Cross File:** None.

**Information Source(s):** State's Attorneys' Association, Judiciary (District Court, Administrative Office of the Courts), State Commission on Criminal Sentencing Policy, Department of Public Safety and Correctional Services, Department of Legislative Services

**Fiscal Note History:** First Reader - February 21, 2008  
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