

Department of Legislative Services
Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE
Revised

House Bill 348

(Delegates Waldstreicher and Feldman)

Judiciary

Judicial Proceedings

Criminal Law - Crimes Against a Law Enforcement Officer - Definition of Law Enforcement Officer

This bill expands the definition of the term “law enforcement officer” under provisions prohibiting assault against law enforcement officers by adding members of the Washington Metropolitan Area Transit Authority (WMATA) Metro Transit Police.

Fiscal Summary

State Effect: None. Although it is unclear as to whether the bill’s changes would result in more convictions and incarcerations for felony assault, it would not have any significant impact on the operations or finances of State government.

Local Effect: None. Although it is unclear as to whether the bill’s changes would result in more or fewer prosecutions for felony assault, it will not have any significant impact on the operations or finances of local government.

Small Business Effect: None.

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.

A law enforcement officer is defined as an individual who, in an official capacity, is legally authorized to make arrests and is a member of:

- the Department of State Police;
- the Baltimore City Police Department;
- the Baltimore City School Police Force;
- the Baltimore City Watershed Police Force;
- the police department, bureau, or force of any county;
- the police department, bureau, or force of any incorporated city or town;
- the office of the sheriff of any county;
- the police department, bureau, or force of any bicounty agency;
- the Maryland Transportation Authority Police and the police forces of the Maryland Department of Transportation;
- the police force of the Department of Natural Resources;
- the Field Enforcement Division 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 office of the State Fire Marshal;
- the police forces of the University System of Maryland;
- the police force of Morgan State University;
- the Ocean Pines Police Department; and
- the police force of the Baltimore City Community College.

Under the provision governing this prohibition against assault, "law enforcement officer" also includes any of the following:

- an individual who serves at the pleasure of the Police Commissioner of Baltimore City;
- an individual who serves at the pleasure of the appointing authority of a charter county;
- the police chief of a municipal corporation;
- an officer who is in probationary status on initial entry into the law enforcement agency except if an allegation of brutality in the execution of the officer's duties is made;
- a fire and explosive investigator in Montgomery County, Anne Arundel County, the City of Annapolis, Prince George's County, or Worcester County.

Additional Information

Prior Introductions: SB 761 of 2006, a similar bill, passed the Senate and passed the House on second reading. No further action was taken.

Cross File: SB 294 (Senator Garagiola, *et al.*) – Judicial Proceedings.

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

Fiscal Note History: First Reader - February 7, 2008

mll/jr Revised - House Third Reader - March 24, 2008

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