

Department of Legislative Services
Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE

House Bill 1489
Judiciary

(Delegate Rosenberg)

Transportation - Crimes Against Public Transit Employees - Penalties

This bill prohibits an individual from committing any of several specified offenses against a “public transit employee” acting in the course of the employee’s duties. A violator is subject to a fine of up to one and one-half times the maximum fine authorized for the underlying offense and/or imprisonment for up to one and one-half times the maximum imprisonment authorized for the underlying offense.

Fiscal Summary

State Effect: Minimal increase in general fund expenditures due to the bill’s incarceration penalty provisions and the fact that the prohibited conduct is already criminal conduct.

Local Effect: Minimal increase in local revenues due to the bill’s monetary penalty provisions and the fact that the prohibited conduct is already criminal conduct.

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.

A person who commits a second degree assault is guilty of the misdemeanor and subject to maximum penalties of imprisonment for 10 years and/or a fine of \$2,500. 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.

Reckless endangerment is recklessly engaging in conduct that creates a substantial risk of death or serious physical injury to another or discharging a firearm from a motor vehicle in a manner that creates a substantial risk of death or serious physical injury to another. Reckless endangerment is punishable by up to five years imprisonment and/or a \$5,000 fine.

An individual may not take unauthorized possession or control of a motor vehicle from another individual who actually possesses the motor vehicle, by force or violence, or by putting that individual in fear through intimidation or threat of force or violence. A violation is carjacking. Armed carjacking occurs when the person employs or displays a dangerous weapon during the commission of a carjacking. A violator of either prohibition is guilty of a felony and subject to a maximum imprisonment of 30 years.

Extortion by false accusation is a misdemeanor and subjects a violator to maximum penalties of imprisonment for 10 years and/or a fine of \$10,000. Extortion by verbal threat, as well as extortion by written threat, is a felony and subjects a violator to maximum penalties of imprisonment for 10 years and/or a fine of \$10,000.

The State’s prohibition against kidnapping provides that a person may not, by force or fraud, carry or cause a person to be carried in or outside the State with the intent to have the person carried or concealed in or outside the State. A violator is guilty of a felony and subject to imprisonment for up to 30 years. Kidnapping does not include the act of a parent in carrying a minor child of that parent in or outside the State.

Manslaughter is a common law offense. The meanings accorded to involuntary and voluntary manslaughter are judicially determined and based on case law. The distinction generally depends on whether there was an intention to kill. Manslaughter generally is a felony and distinct from murder by virtue of the absence of malice. Voluntary manslaughter is distinguished from murder by absence of malice aforethought, express or implied, and by having a reasonable provocation.

A person who commits manslaughter is guilty of a felony and subject to maximum penalties of: (1) imprisonment for 10 years; or (2) imprisonment in a local correctional facility for 2 years and/or a fine of \$500. Voluntary manslaughter is a crime of violence for purposes of sentencing and parole laws.

A person may not cause the death of another as a result of the person's driving, operating, or controlling a vehicle or vessel in a grossly negligent manner. A violator is guilty of the felony of manslaughter by vehicle or vessel and subject to maximum penalties of imprisonment for 10 years and/or a fine of \$5,000. A vehicle includes a motor vehicle, streetcar, locomotive, engine, and train. Gross negligence has been held to be a wanton or reckless disregard for human life.

First degree murder is a felony and a violator must be sentenced to life imprisonment, life imprisonment without the possibility of parole, or death.

A conviction for first degree rape carries a maximum penalty of life imprisonment. A conviction for child kidnapping along with first degree rape or first degree sexual offense, where the victim is a child under age 16, carries a maximum penalty of life imprisonment without the possibility of parole.

Robbery is a common law offense and retains its judicially determined meaning with certain exceptions. A violator is guilty of a felony and subject to a maximum imprisonment penalty of 15 years. Under the State's prohibition against robbery with a dangerous weapon, a person may not commit or attempt to commit robbery with a dangerous weapon or by displaying a written instrument claiming that the person has possession of a dangerous weapon. A violator is guilty of a felony and subject to a maximum imprisonment penalty of 20 years.

Under the general theft provisions, a person convicted of theft of property with a value of \$500 or more is guilty of a felony and subject to maximum penalties of imprisonment for 15 years and/or a fine of \$25,000. A person convicted of theft of property with a value of less than \$500 is guilty of a misdemeanor and subject to maximum penalties of imprisonment for 18 months and/or a fine of \$500. Regardless of value, the convicted person must restore the owner's property or pay the owner for the value of the property.

Chapter 130 of 2004 created a new petty theft sentencing category for existing theft, bad checks, and credit card offenses where the value of the goods, services, and other property involved in the offense is less than \$100. A violator is guilty of a misdemeanor and subject to maximum penalties of 90 days' imprisonment and/or a \$500 fine.

Several of the covered offenses meet one of the statutory definitions of a crime of violence that may require enhanced sentencing, firearm restrictions, limitations on diminution of credit earning ability by an inmate, or parole eligibility.

Background: Recent reports of rowdy and criminal behavior on transit vehicles in the Baltimore area, including personal assaults, have 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.

During calendar 2007, a total 50 MTA employees were assaulted while on duty. Of that number, 19 involved assaults were committed against MTA police officers and 31 against MTA operators.

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 for longer periods of time. This penalty enhancement would make it unlikely that convicted persons would be sentenced to a local correctional facility. 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 sentenced for a criminal conviction 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.

Additional Information

Prior Introductions: None.

Cross File: None.

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

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mcp/jr

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