

Department of Legislative Services
Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE

Senate Bill 365 (Senator Stone)
Judicial Proceedings

Criminal Law - Assault - Law Enforcement Officers and Parole and Probation Agents

This bill includes the second degree assault of a parole agent and probation agent engaged in the performance of official duties under provisions prohibiting such a felony assault which results in a “physical injury” to the victim. The bill also increases the maximum penalty for such an assault on a law enforcement officer, parole agent, or probation agent from 10 years imprisonment and/or a \$5,000 fine to 15 years imprisonment and/or a \$10,000 fine.

Fiscal Summary

State Effect: Minimal increase in general fund revenues and expenditures due to the bill’s expanded scope for second degree assault and increased penalty provisions.

Local Effect: Minimal increase in local revenues due to the bill’s expanded scope for second degree assault and increased monetary penalty provisions.

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 10 years imprisonment and/or a fine of \$2,500. Assault means the crimes of assault, battery, and assault and battery, which are defined through case law.

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 or municipal corporation;
- 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 forces 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; or
- 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:

- a correctional officer at a correctional facility;

- an officer employed by the Washington Metropolitan Area Transit Authority Metro Transit Police, subject to jurisdictional limitations;
- 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 the status results from an allegation of brutality in the execution of the officer's duties;
- a fire and explosive investigator in Anne Arundel, Montgomery, Prince George's, or Worcester counties; or the cities of Annapolis and Hagerstown.

State Revenues: General fund revenues may increase minimally as a result of the bill's increased monetary penalty provision and expanded scope from cases heard in the District Court.

State Expenditures: General fund expenditures may increase minimally as a result of the bill's increased incarceration penalty and expanded scope due to more people being committed to Division of Correction (DOC) facilities. The number of people convicted as a result of the bill's changes 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 variable medical care and variable operating costs) is \$342 per month. Excluding all medical care, the average variable costs total \$164 per month. 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 may increase minimally as a result of the bill's increased monetary penalty provision and expanded scope from cases heard in the circuit courts.

Additional Information

Prior Introductions: None.

Cross File: HB 409 (Delegate Anderson, *et al.*) - Judiciary.

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

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