

Department of Legislative Services  
Maryland General Assembly  
2009 Session

FISCAL AND POLICY NOTE

House Bill 1388

(Chair, Judiciary Committee)(By Request - Departmental  
- State Police)

Judiciary

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**Criminal Law - Disarming a Law Enforcement Officer - Prohibition**

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This departmental bill prohibits a person from knowingly removing or attempting to remove a baton, chemical defense spray, or taser stun device from a law enforcement officer acting lawfully within the course and scope of the officer's employment and the person has knowledge or reason to know that the officer is employed as a law enforcement officer. A violator is guilty of a felony and subject to maximum penalties of 10 years imprisonment and/or a \$10,000 fine. A sentence for this offense is allowed to be consecutive to or concurrent with a sentence for any other crime based on the same act or acts.

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**Fiscal Summary**

**State Effect:** Potential minimal increase in general fund revenues and expenditures due to the bill's penalty provisions.

**Local Effect:** Potential minimal increase in local revenues and expenditures due to the bill's penalty provisions.

**Small Business Effect:** The Department of State Police has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment.

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**Analysis**

**Current Law:** A person may not knowingly remove or attempt to remove a firearm from the possession of a law enforcement officer acting lawfully within the course and

scope of the officer's employment and the person has knowledge or reason to know that the officer is employed as a law enforcement officer. A violator is guilty of a felony and subject to maximum penalties of 10 years imprisonment and/or a \$10,000 fine. A sentence for this offense is allowed to be consecutive to or concurrent with a sentence for any other crime based on the same act or acts.

For purposes of this prohibition, the term "law enforcement officer" means:

- a law enforcement officer who, in an official capacity, is authorized by law to make arrests;
- a sheriff, deputy sheriff, or assistant sheriff; or
- an employee of the Division of Correction, the Patuxent Institution, the Division of Pretrial Detention and Services, the Division of Parole and Probation, a local correctional facility, or any booking facility.

**Background:** According to the most recent Uniform Crime Report, there are on average 4,000 assaults annually against police officers. In fiscal 2008, there were eight serious assaults by inmates on State correctional facility staff, two of those assaults involved a weapon. During that same period, there were 338 less serious assaults by inmates on State correctional staff, with 17 of those incidents involving a weapon. Data on the number of such assaults against local correctional staff was not readily available.

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

**State Expenditures:** General fund expenditures may increase minimally as a result of the bill's incarceration penalty due to more people being committed to Division of Correction (DOC) facilities and increased payments to counties for reimbursement of inmate costs. 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 variable medical care and variable operating costs) is \$342 per month. Excluding all medical care, the average variable costs total \$164 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 2010 are estimated to range from \$23 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 may increase minimally as a result of the bill's monetary penalty provision from cases heard in the circuit courts.

**Local Expenditures:** Expenditures may 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 \$46 to \$141 per inmate in fiscal 2010.

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### Additional Information

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Garrett County; Montgomery County; Judiciary (Administrative Office of the Courts); Department of Labor, Licensing, and Regulation; Department of State Police; Department of Public Safety and Correctional Services; Maryland Department of Transportation; University System of Maryland; Department of Legislative Services

**Fiscal Note History:** First Reader - March 17, 2009  
ncs/kdm

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Analysis by: Guy G. Cherry

Direct Inquiries to:  
(410) 946-5510  
(301) 970-5510



ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Criminal Law - Disarming a Law enforcement Officer - Prohibition.

BILL NUMBER: HB 1388

PREPARED BY: Department of State Police

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND  
SMALL BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND  
SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

The proposed legislation will have no impact on small business in Maryland.