

Department of Legislative Services
Maryland General Assembly
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FISCAL AND POLICY NOTE
Revised

House Bill 899

(Delegate Clagett, *et al.*)

Judiciary and Appropriations

Judicial Proceedings

Division of Parole and Probation - Warrant Apprehension Unit - Powers

This bill codifies in statute the existing Warrant Apprehension Unit (WAU) within the Department of Public Safety and Correctional Services' (DPSCS) Division of Parole and Probation (DPP), grants employees of the unit the powers of police and peace officers, and classifies them as police officers and law enforcement officers.

The bill takes effect June 1, 2011.

Fiscal Summary

State Effect: General fund expenditures by DPSCS increase by no more than \$50,000 for training. General fund expenditures for disability, death, and workers' compensation benefits may increase due to the reclassification of 32 employees both as police officers and law enforcement officers. Although the per-incident costs can be significant, the number of cases is expected to be minimal. No effect on revenues.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: WAU is charged with:

- executing warrants for the retaking of offenders;
- executing warrants for the arrest of probationers for whom a warrant is issued for an alleged violation of probation;

- obtaining and executing search warrants authorized by statute; and
- arresting offenders in the program as authorized by statute.

Current Law: The Division of Parole and Probation:

- supervises parolees;
- supervises individuals under mandatory supervision;
- regularly informs the Parole Commission of the activities of offenders it supervises;
- issues warrants for the retaking of an offender charged with a violation of parole or mandatory supervision; and
- administers the Drinking Driver Monitor Program.

Division employees are authorized to carry out the functions assigned to WAU by the bill. However, any division employee authorized to make arrests must meet the minimum qualifications required by the Maryland Police Training Commission and successfully complete the training prescribed by the commission.

Benefits for Police and Law Enforcement Officers

The Law Enforcement Officers' Bill of Rights (LEOBOR) was enacted in 1974 to guarantee police officers specified procedural safeguards in any investigation that could lead to disciplinary action. It extends to police officers of 23 specified State and local agencies but does not extend to any correctional officers in the State. LEOBOR extends uniform protections to officers in two major components of the disciplinary process: (1) the conduct of internal investigations of complaints that may lead to a recommendation of disciplinary action against a police officer; and (2) procedures that must be followed once an investigation results in a recommendation that an officer be disciplined. LEOBOR requirements are much more restrictive and time consuming than the Title 11 requirements. Specifically, LEOBOR delineates who can do the investigation, what management must disclose to the employee, and when and where the meeting can take place as well as limits the duration of the meeting.

DPSCS is required to pay a death benefit to the surviving spouse, child, dependent parent, or estate of each of the following individuals who is killed or dies in the performance of duties: (1) a law enforcement officer; (2) a correctional officer; (3) a volunteer or career firefighter or rescue squad member; (4) a sworn member of the State Fire Marshal's Office; (5) a public safety aviation employee; (6) a Maryland resident who was a member of the uniform services of the United States serving in the Afghanistan or Iraq conflict; or (7) a hazardous material response team employee of the Maryland Department of the Environment. With the exception of a member of the armed

forces serving in Afghanistan or Iraq, reasonable funeral expenses up to \$10,000 must also be paid.

Beginning in fiscal 2009, the \$125,000 death benefit is adjusted annually by the Consumer Price Index. Reasonable funeral expenses, not exceeding \$10,000, must be paid to the same persons.

A death benefit under these provisions is in addition to (1) any workers' compensation benefits; (2) the proceeds of any form of life insurance, regardless of who paid the premiums; and (3) the funeral benefit provided under these provisions. The funeral benefit must be reduced by the amount of any paid and related workers' compensation benefits. Payments of death or funeral benefits must be made out of money that the Governor includes for that purpose in the State budget.

The circumstances under which an individual who dies from a heart attack or stroke is presumed to have died in the performance of duties, including that the heart attack or stroke occurred (1) while the individual was engaged in specified stressful activity; (2) while on duty after such activity; or (3) no later than 24 hours after such activity. The presumption is not overcome by competent medical evidence to the contrary.

An additional death benefit of \$50,000 must be paid by the Department of Budget and Management (DBM) to the survivors of a public safety employee of the State who is killed in the performance of duties. Local government public safety employees are not covered under this provision. In a typical year, DBM makes no more than one or two such payments.

An individual who receives a death benefit under this provision may not also receive the \$100,000 death benefit otherwise paid to State employees. The \$50,000 death benefit must be in addition to any (1) workers' compensation benefits; (2) proceeds of any form of life insurance; (3) benefit provided to a State employee covered by DPSCS; and (4) with a certain exception, benefits paid to a member of the Maryland National Guard, the member's estate, or the member's beneficiaries or survivors by the United States.

Workers' Compensation

The Workers' Compensation Act specifies that police officers are covered by an occupational disease presumption because they are subject to unusual hazards in the course of their daily activities in the line of duty. Under the Act, police officers may be presumed to have an occupational disease that was incurred in the line of duty if the employee has heart disease or hypertension that results in partial or total disability or death. If a police officer employed by the State suffers from heart disease or hypertension, the State must cover the police officer's related medical expenses and

provide wage replacement benefits if the individual is disabled. If the individual dies as a result of an occupational disease, the State must pay death benefits to any dependents of the individual. The wage replacement benefits received by a police officer, or a dependent of a police officer, must be adjusted so that the weekly total of workers' compensation benefits and retirement benefits does not exceed the weekly salary that was paid to the police officer.

In addition, workers' compensation law specifies that police officers receive certain disability benefits at a higher rate than other types of employees, including correctional officers employed by the State. Police officers are entitled to receive enhanced workers' compensation benefits for permanent partial disabilities (PPD) that are determined to be compensable for fewer than 75 weeks. Police officers receive up to two-thirds of their average weekly wage, not to exceed one-third of the State average weekly wage. Currently, the maximum award any other employee of the State may receive for this type of injury is one-third of the employee's average weekly wage or up to 16.7% of the State average weekly wage, which is \$940 for calendar 2011.

State Fiscal Effect: DPSCS advises that WAU currently has 32 warrant agents.

In regards to workers' compensation, the State is a self-insured employer and the State must cover any additional costs that result from changing the classification of these employees, which results in the employees' eligibility for enhanced benefits. Thus, the State is responsible for claims that arise due to the future diagnosis or worsening of the heart disease or hypertension suffered by individuals who are considered police officers under the bill. The number of occupational disease claims that may arise due to the bill cannot be reliably estimated – the State's liability is limited given that the bill changes the classification of only 32 employees. Nevertheless, based on similar estimates regarding the expanded application of the occupational disease presumption, State expenditures may increase by between \$100,000 and \$1 million per occupational disease claim. Thus, any additional claims received by the State due to the bill's changes likely result in a significant increase in general fund expenditures.

The Police Training Commission advises that the training requirements for a "police officer" are more extensive than the minimum training required for WAU employees under current law. Current members of WAU who have not been certified as a police officer within the past five years will have to complete the commission's six-month entry-level training course for new police officers. Members who have been certified within the previous five years but have not served as police officers in the intervening time will have to complete an abbreviated "compliance" course. The entry-level course costs approximately \$1,500 per individual, plus additional expenses such as health and mental health screenings and criminal background checks that are required for new police officers. The duration and cost of the abbreviated course for members who have been

certified as police officers within the past five years varies depending on when they were last certified. Therefore, general fund expenditures by DPSCS increase minimally in fiscal 2012 to pay for additional training for current WAU members; the total cost cannot be reliably estimated because the current certification status of the members is not known but likely does not exceed \$50,000. Future expenditures also increase to the extent that DPSCS pays for members of WAU hired after the bill's effective date to complete the training, but those costs can be minimized if WAU recruits only individuals who have already completed the training.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Governor's Office of Crime Control and Prevention, Mercer Human Resources Consulting, Maryland State Retirement Agency, Department of Public Safety and Correctional Services, Department of Legislative Services

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