

Department of Legislative Services
Maryland General Assembly
2012 Session

FISCAL AND POLICY NOTE

Senate Bill 131

(Senator Middleton, *et al.*)

Judicial Proceedings

Judiciary

Criminal Procedure - Warrantless Arrests - Theft Crimes

This bill expands the authority of a police officer to make a warrantless arrest by authorizing a police officer to make a warrantless arrest if the officer has probable cause to believe that a person has committed a theft crime involving property with a value of less than \$1,000, rather than the current threshold of \$500. The bill's provisions reflect changes made to the general theft statute by Chapter 655 of 2009.

Fiscal Summary

State Effect: Minimal increase in State revenues from fines imposed in District Court cases stemming from warrantless arrests authorized under the bill. Minimal increase in State incarceration expenditures if the bill's provisions result in an increase in theft convictions.

Local Effect: Minimal increase in local revenues from fines imposed in circuit court cases stemming from warrantless arrests authorized under the bill. Minimal increase in local incarceration expenditures if the bill's provisions result in an increase in theft convictions.

Small Business Effect: None.

Analysis

Current Law:

Warrantless Arrests

Generally, for a police officer to be authorized to make an arrest, a judge or District Court commissioner must first issue a warrant based on a finding of probable cause.

A law enforcement officer may, however, make a warrantless arrest when (1) a person commits or attempts to commit a felony or misdemeanor in the officer's presence or within view of the officer; (2) the officer has probable cause to believe that a felony or misdemeanor is being committed in the presence or within the view of the police officer; (3) the police officer has probable cause to believe that a person has committed or attempted to commit a felony, whether or not in the presence or within the view of the police officer; or (4) the officer has probable cause to believe that the person has committed one of a limited number of misdemeanors specified in statute and that unless the person is arrested immediately, the person may not be apprehended, may cause physical harm or property damage, or may tamper with, dispose of, or destroy evidence.

The crimes specified in statute include theft of property valued at less than \$500, vehicular manslaughter, malicious burning and mischief, carrying or wearing a concealed weapon, and certain controlled dangerous substance offenses.

A police officer may also arrest a person without a warrant in situations involving domestic abuse and stalking. An officer is required to arrest with or without a warrant and take into custody any person the officer has probable cause to believe is in violation of an interim, temporary, or final protective order in effect at the time of the violation.

Theft Crimes

A person convicted of theft of property or services valued at less than \$100 is guilty of a misdemeanor and is subject to maximum penalties of imprisonment of 90 days and/or a \$500 fine. A person convicted of theft of property with a value of less than \$1,000 is guilty of a misdemeanor and subject to maximum penalties of imprisonment for 18 months and/or a fine of \$500.

Chapter 655 of 2009 increased the maximum property value for misdemeanor theft from \$500 to \$1,000 and created the three tiers of felony theft listed below:

Value of Property and/or Services

Maximum Penalty

Between \$1,000 and \$10,000

10 years imprisonment and/or a \$10,000 fine

Between \$10,000 and \$100,000

15 years imprisonment and/or a \$15,000 fine

\$100,000 or more

25 years imprisonment and/or a \$25,000 fine

A person may not knowingly and willfully take a motor vehicle out of the owner's lawful custody, control, or use without the owner's consent. Violators are guilty of felony motor vehicle theft and are subject to maximum penalties of imprisonment for five years and/or a fine of \$5,000. A conviction for motor vehicle theft must merge into a conviction for general theft for the same act or transaction.

State Revenues: General fund revenues increase minimally as a result of penalties imposed in District Court cases stemming from arrests authorized under the bill.

State Expenditures: General fund expenditures increase minimally to the extent that the expansion of warrantless arrest powers results in 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 crimes as a result of the bill 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 \$2,900 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 about \$385 per month. Excluding all medical care, the average variable costs total \$170 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. Prior to fiscal 2010, the State reimbursed counties for part of their incarceration costs, on a per diem basis, after a person has served 90 days. Currently, the State provides assistance to the counties for locally sentenced inmates and for inmates who are sentenced to and awaiting transfer to the State correctional system. A \$45 per diem grant is provided to each county for each day between 12 and 18 months that a sentenced inmate is confined in a local detention center. Counties also receive an additional \$45 per day grant for inmates who have been sentenced to the custody of the DOC but are confined in a local facility. The State does not pay for pretrial detention time in a local correctional facility. Persons sentenced 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: Local revenues increase minimally as a result of penalties imposed in circuit court cases stemming from arrests authorized under the bill.

Local Expenditures: Local expenditures increase minimally as a result of the bill's expanded application of electronic harassment and the bill's penalty provisions. Counties pay the full cost of incarceration for people in their facilities for the first 12 months of the sentence. A \$45 per diem State grant is provided to each county for each day between 12 and 18 months that a sentenced inmate is confined in a local detention center. Counties also receive an additional \$45 per day grant for inmates who have been sentenced to the custody of DOC but are confined in a local facility. Per diem operating costs of local detention facilities have ranged from approximately \$60 to \$160 per inmate in recent years.

Additional Information

Prior Introductions: None.

Cross File: HB 115 (Delegate Jameson, *et al.*) - Judiciary.

Information Source(s): Baltimore City; Kent, Montgomery, and Worcester counties; Office of the Public Defender; Department of Legislative Services

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