

Department of Legislative Services
Maryland General Assembly
2012 Session

FISCAL AND POLICY NOTE

Senate Bill 176 (Senator Robey)
Judicial Proceedings

Criminal Law - Impersonation of a Police Officer - Penalties

This bill changes the crime of impersonating a police officer from a misdemeanor to a felony and increases the maximum applicable penalties from imprisonment for two years and/or a fine of \$2,000 to imprisonment for five years and/or a fine of \$5,000.

Fiscal Summary

State Effect: Potential minimal increase in State correctional costs due to more persons being sentenced to a State correctional facility rather than a local facility. General fund revenues could decrease minimally as a result of some shifting of cases from the District Court to the circuit courts.

Local Effect: Potential minimal decrease in local correctional costs due to more persons being sentenced to a State correctional facility rather than a local facility. Local revenues could increase minimally as a result of some shifting of cases from the District Court to the circuit courts.

Small Business Effect: None.

Analysis

Current Law: A person may not, with fraudulent design on person or property, falsely represent themselves to be a police officer, special police officer, sheriff, deputy sheriff, or constable. With a certain exception, a person may not have, use, wear, or display a uniform, shield, button, ornament, badge, identification, or shoulder patch adopted by the Department of State Police to be worn by its members, insignia, or emblem of office, as is worn by a police officer, sheriff, deputy sheriff, or constable. In addition, a person

may not, for the purpose of deception, have a simulation or imitation of such an insignia or emblem, or use, wear, or display such an article without the appropriate authority of specified State, local, or federal law enforcement entities.

A violator is guilty of a misdemeanor and subject to maximum penalties of imprisonment for two years and/or a fine of \$2,000.

Background: Chapter 167 of 2004 increased the maximum penalties for this offense from imprisonment for six months and/or a fine of \$100 to the current levels.

Changing crimes from misdemeanors to felonies means (1) that such cases will likely be filed in the circuit courts rather than the District Court; and (2) some persons could eventually serve longer incarcerations due to enhanced penalty provisions, applicable to some offenses, for prior felony convictions. It is not known whether, under the bill's provisions, the prospect of a jury trial might spur more plea bargains and affect actual sentencing practices for this offense.

In any case, the bill would shift some unknown number of cases from the District Court to the circuit courts and would also result in fewer *de novo* appeals being taken from the District Court to the circuit courts.

A review of the Maryland Sentencing Guidelines database indicates there were four convictions for violations of this offense in fiscal 2011.

State Revenues: General fund revenues decrease minimally as a result of the shift of these criminal cases, with corresponding increased monetary penalties, from the District Court to the circuit courts.

State Expenditures: General fund expenditures could increase minimally as a result of the bill's enhanced incarceration penalty due to more people being committed to Division of Correction (DOC) facilities. The number of people affected by the bill's enhanced penalties 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 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 the shift of these criminal cases, with corresponding increased monetary penalties, from the District Court to the circuit courts.

Local Expenditures: Expenditures could decrease minimally as a result of the bill's enhanced incarceration penalty. 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: SB 316 of 2008 passed the Senate with amendments but received an unfavorable report from the House Judiciary Committee. HB 1191 of 2008 received an unfavorable report from the House Judiciary Committee.

Cross File: HB 539 (Delegate DeBoy, *et al.*) - Judiciary.

Information Source(s): Baltimore, Cecil, Carroll, Montgomery, and St. Mary's counties; City of Frederick; City of Havre de Grace; Commission on Criminal Sentencing Policy; Department of Natural Resources; Department of General Services; Judiciary (Administrative Office of the Courts); Department of State Police; Office of the Public Defender; Department of Public Safety and Correctional Services; Department of Legislative Services

Fiscal Note History: First Reader - February 6, 2012
mc/hlb

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