

Department of Legislative Services
Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE

Senate Bill 628

(Senator Jacobs)

Judicial Proceedings

Crimes Against Public Administration - Tampering with Evidence

This bill prohibits a person from willfully engaging in specified activities if the person knows or has reason to believe that a “police or an executive investigation” is underway or will soon be instituted. The prohibited activities are: (1) altering, destroying, concealing, or removing an article, object, record, document, or any other physical item with the intention of impairing the integrity of the item or the availability of the item in the investigation; or (2) making, devising, preparing, presenting, offering, or using any article, object, record, document, or other physical item knowing the item to be false and with the intention of misleading a public official or employee who is participating in the investigation.

A person who commits a violation relating to a police or executive investigation of a felony drug offense or a crime of violence is guilty of a felony, punishable by imprisonment for up to 20 years. All other violators are guilty of a misdemeanor, punishable by imprisonment for up to five years and/or a \$5,000 maximum fine. A sentence imposed for the violation may be separate from and consecutive to or concurrent with a sentence for any crime based on the act establishing the violation.

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: None.

Analysis

Bill Summary: A “police or executive investigation” means an investigation conducted by a law enforcement agency or another unit of the Executive Branch of State or local government for the purpose of identifying criminal activity or apprehending suspected criminal offenders.

Current Law: The obstruction of justice statute prohibits a person from using threats, force, or corrupt means to obstruct, impede, or try to obstruct or impede the administration of justice in a court of the State. Violators are guilty of a misdemeanor, punishable by imprisonment for up to five years and/or a \$10,000 maximum fine.

In *State v. Pagano*, 104 Md. App. 113 (1995), the Maryland Court of Special Appeals held that the obstruction of justice statute does not apply to a preliminary police investigation. According to the court, an obstruction of justice charge requires the existence of a pending judicial proceeding as the object of the obstruction.

Additional Information

Prior Introductions: None.

Cross File: HB 594 (Delegate McComas, *et al.*) - Judiciary.

Information Source(s): Charles County, City of Annapolis, Maryland State Commission on Criminal Sentencing Policy, Governor’s Office of Crime Control and Prevention, Department of General Services, Department of Health and Mental Hygiene, Comptroller’s Office, Judiciary (Administrative Office of the Courts), Office of the Public Defender, Department of Public Safety and Correctional Services, State’s Attorneys’ Association, Department of Legislative Services

Fiscal Note History: First Reader - February 8, 2013
ncs/kdm

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