

Department of Legislative Services
Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE
Revised

House Bill 695
Judiciary

(Delegate McComas, *et al.*)

Judicial Proceedings

Crimes - Obstructing Justice - Tampering With or Fabricating Physical Evidence

This bill prohibits a person from (1) destroying, altering, concealing, or removing physical evidence that the person believes may be used in a pending or future official proceeding with the intent to impair the verity or availability of the physical evidence in the official proceeding; (2) fabricating physical evidence in order to impair the verity of the physical evidence with the intent to deceive and that the fabricated physical evidence be introduced in a pending or future official proceeding; or (3) introducing physical evidence in an official proceeding if the person knows that the evidence has been altered or fabricated with the intent to deceive in order to impair the verity of the physical evidence.

Violators are guilty of a misdemeanor, punishable by imprisonment for up to three years and/or a maximum fine of \$5,000.

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

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.

The statute defines an “official proceeding” to include a criminal trial, a hearing related to a criminal trial or adjudicatory hearing, a grand jury proceeding, and any other proceeding that is part of a criminal action or juvenile delinquency case.

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: None.

Information Source(s): Maryland State Commission on Criminal Sentencing Policy, Judiciary (Administrative Office of the Courts), Office of the Public Defender, Department of Public Safety and Correctional Services, Department of Legislative Services

Fiscal Note History: First Reader - February 26, 2014
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