

Department of Legislative Services
Maryland General Assembly
2016 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1441
Judiciary

(Delegates Glass and Anderson)

Public Safety - Law Enforcement - Protective Headgear While in Custody

This bill requires a law enforcement agency to require a law enforcement officer who places a person in custody with the use of a “physical restraint” to require the person in custody to wear protective headgear with a face shield while the person is in the physical restraint, unless the requirement is unreasonable under the circumstances. “Physical restraint” means a restraint or device used to control or bind the movement of any part of an individual’s body or limbs; the term includes handcuffs and leg shackles.

Fiscal Summary

State Effect: State expenditures (multiple fund types) increase significantly – likely by more than \$1 million – for State law enforcement agencies to purchase the required protective headgear. Revenues are not affected.

Local Effect: Local government expenditures increase significantly for local law enforcement agencies to purchase the required protective headgear. Revenues are not affected. **This bill imposes a mandate on a unit of local government.**

Small Business Effect: None, assuming protective headgear is purchased from larger businesses.

Analysis

Current Law/Background:

Protective Headgear: Maryland law does not specify a requirement for the use of protective headgear for a person while in the custody of law enforcement. However, some police departments in other states address the issue through policy. For example, the

Kansas City, Missouri, Police Department has a personnel policy that requires the use of a protective helmet with a protective shield on arrestees who attempt to spit, bite, or head butt members in order to prevent possible transmission of communicable diseases. In addition, the Albuquerque, New Mexico, Police Department procedural orders allow the use of protective padded headgear if “the subject’s behavior” warrants its use. Any injuries received by the subject while utilizing the device are handled by the department in the same manner as the reporting of the use of force.

Freddie Gray: On April 12, 2015, one day before the close of the 2015 legislative session, Freddie Carlos Gray, Jr., a 25-year-old African American man, was arrested by the Baltimore Police Department for possessing what the police alleged was an illegal switchblade. While being transported in a police van, Mr. Gray fell into a coma and was taken to the hospital. Mr. Gray died as a result of injuries to his spinal cord on April 19, 2015.

Eyewitnesses contended that the police officers involved used unnecessary force against Mr. Gray while arresting him. Police Commissioner Anthony W. Batts reported that, contrary to department policy, the officers did not secure Mr. Gray inside the van while transporting him to the police station. The autopsy found that Mr. Gray had sustained the injuries while in transport.

Mr. Gray’s death resulted in a series of protests and widespread civil unrest. On April 25, 2015, a major protest in downtown Baltimore turned violent, resulting in numerous arrests and injuries to police officers. After Mr. Gray’s funeral on April 27, the violence continued, prompting the declaration of a state of emergency by Governor Lawrence Hogan, the deployment of the Maryland National Guard to Baltimore, and the establishment of a curfew. Protests in response to Mr. Gray’s death also took place in other cities across the nation.

On May 1, 2015, Baltimore City State’s Attorney Marilyn Mosby announced the filing of charges against the six police officers who were involved in Mr. Gray’s arrest and transport. The officer driving the van was charged with second-degree depraved-heart murder, and others were charged with crimes ranging from manslaughter to illegal arrest. On May 21, a grand jury indicted the officers on most of the original charges filed by Ms. Mosby, with the exception of the charges of illegal imprisonment and false arrest; the grand jury added charges of reckless endangerment against all the officers involved.

On May 8, 2015, U.S. Attorney General Loretta Lynch announced that the U.S. Department of Justice would conduct a review of the practices of the Baltimore Police Department due to a “serious erosion of public trust” in relation to the circumstances of Mr. Gray’s death. The review began immediately and focuses on allegations that Baltimore police officers use excessive force, including deadly force; conduct unlawful searches, seizures, and

arrests; and engage in discriminatory policing. The investigation is expected to take more than a year to complete and could lead to a consent decree and years of oversight by the federal government.

State Expenditures: General fund expenditures increase significantly for State law enforcement agencies to purchase protective headgear as a result of the bill. Protective headgear (helmets) range in price from \$150 to \$1,500 each and are available in multiple sizes in order to accommodate different head sizes. Under the bill, in order for a law enforcement officer to place a person in custody with the use of a physical restraint (including handcuffs or leg shackles), the officer must have immediate access to protective headgear to fit the person; therefore, each law enforcement officer requires access to multiple protective headgear sizes.

A reliable estimate of the bill's overall impact on State agencies with law enforcement units cannot be made at this time, as it depends on the number of helmets ultimately purchased and the price of each helmet. However, *for illustrative purposes only*, the Department of State Police (DSP) has approximately 750 troopers involved in road patrol, and the Natural Resources Police (NRP) within the Department of Natural Resources has 260 officers (for a total of 1,010 across the two agencies). If both DSP and NRP purchase one protective helmet in three different sizes for each trooper/officer at a cost of \$400 per helmet, general fund expenditures increase by \$1.2 million in fiscal 2017. As helmets are used over time, additional costs are incurred to purchase replacement helmets.

Local Expenditures: Local expenditures also increase significantly for local law enforcement agencies to purchase the required protective headgear. Although the total number of helmets that local law enforcement agencies purchase under the bill is unknown, given the significant number of local law enforcement officers across the State, it is significant. For example, Montgomery County estimates costs of about \$764,000 to purchase nearly 2,500 helmets. Charles County estimates that costs increase by \$100,000 to purchase helmets for all vehicles. The Frederick County Sheriff's Office estimates that costs increase by approximately \$60,300 in fiscal 2017 to purchase helmets and by about \$10,500 annually thereafter to purchase replacement helmets.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Charles, Frederick, Montgomery, and Somerset counties; Department of General Services; Department of Natural Resources; Department of Public

Safety and Correctional Services; Department of State Police; Anchortex Corporation;
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