

Department of Legislative Services
Maryland General Assembly
2016 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 652

(Senators Norman and Cassilly)

Judicial Proceedings

Public Safety - Retired Law Enforcement Officer Identification Card - Failure to Issue

This bill alters the qualifications for a retired law enforcement officer identification card. Under the bill, in order to qualify for such a card, the law enforcement officer must be entitled to receive a pension or other retirement allowance. The bill also sets forth provisions for a retired law enforcement officer to seek a remedy for the failure of a law enforcement agency to issue an identification card to an eligible retired law enforcement officer.

The bill's provisions are applied prospectively only.

Fiscal Summary

State Effect: It is assumed that the bill's provisions can be handled with existing budgeted resources of affected State agencies and the Judiciary. The extent to which additional monetary awards, including attorney costs, may occur through an increase in civil case filings cannot be reliably predicted or quantified.

Local Effect: The number of actual complaints made prospectively is assumed to be minimal statewide. Thus, it is assumed that affected local agencies and the circuit courts can implement the bill with existing resources. The extent to which additional monetary awards, including attorney costs, may occur through an increase in civil case filings cannot be reliably predicted or quantified.

Small Business Effect: None.

Analysis

Bill Summary: The bill provides that a retired law enforcement officer aggrieved by a violation of provisions regarding the issuance of a retired law enforcement officer identification card may bring a civil action against the law enforcement agency for equitable relief or damages. In such an action, if the law enforcement officer demonstrates by a preponderance of the evidence that the officer is entitled to the issuance of a law enforcement officer retirement card, the law enforcement agency has the burden of proving by clear and convincing evidence that the law enforcement officer is not entitled to the card. In the civil action, the officer may seek, in addition to a retired law enforcement officer identification card, statutory damages in the amount of not less than \$250 for each day the officer was entitled to the card but the card was not issued. The bill details options for the court when a determination is made that an officer is entitled to equitable relief or damages in a civil action, including the issuance of the retired law enforcement officer card, award of statutory damages, and reasonable attorney's fees and costs.

In addition, the court may issue an injunction against the law enforcement agency if violations of the bill's provisions continue. If the court determines that a civil action was brought by a law enforcement officer in bad faith or without substantial justification, the court may award reasonable attorney's fees and other litigation expenses to the law enforcement agency.

The bill's provisions may not be construed to diminish the rights, privileges, or remedies of a retired law enforcement officer provided under any federal, State, or local law or under a collective bargaining agreement.

Current Law: A law enforcement agency must provide a retiring law enforcement officer with an identification card within 45 days after the officer's retirement from the agency if the officer (1) meets statutory requirements and (2) pays the fee set by the issuing agency. If a law enforcement officer retired before October 1, 2015, on request of the retired officer, the law enforcement agency from which the officer retired must provide a qualifying officer with an identification card within 60 days after the officer makes the request if the officer (1) meets statutory requirements and (2) pays the fee set by the issuing agency.

A law enforcement agency may charge a reasonable fee for each identification card or replacement card. The fee may not exceed \$20.

To qualify for an identification card, a law enforcement officer:

- must have retired in good standing as a law enforcement officer for reasons other than mental instability; and
- before retirement, must have been certified by the Police Training Commission (PTC), had statutory arrest powers in Maryland, and completed an applicable probationary period.

An identification card issued pursuant to statute must be in the form approved by PTC and include:

- the caption “Retired Law Enforcement Officer” printed on the front of the card;
- a photograph of the retired officer whose name appears on the card;
- the name of the retired law enforcement officer;
- the name of the agency that issued the card;
- the date the card was issued and a statement that the card does not expire; and
- the following statement: “This card is the property of the issuing law enforcement agency.”

Background: Generally, law enforcement agencies in the United States provide retirees with retirement identification cards.

The federal Law Enforcement Officers Safety Act of 2004 and 2010 allows federal, state, and local police retirees to carry firearms with their issued retiree identification cards and with certification that they successfully completed annual firearms training at their own cost. The retirees may carry the firearms anywhere in the United States.

State Fiscal Effect: While the number of additional civil case filings that may result from the bill annually is unknown, it is assumed to be minimal. Thus, the bill is not expected to materially affect the caseload of the District Court. The magnitude of damages awarded by courts in cases brought against State law enforcement agencies under the bill’s provisions cannot be reliably predicted at this time.

Based on information provided by several State law enforcement agencies, it is assumed that affected State law enforcement agencies can implement the bill with existing budgeted resources.

Additional Information

Prior Introductions: None.

Cross File: HB 465 (Delegate Cluster, *et al.*) - Judiciary.

Information Source(s): Baltimore City; Kent, Montgomery, Washington, and Worcester counties; towns of Bel Air and Leonardtown; Judiciary (Administrative Office of the Courts); Baltimore City Community College; University System of Maryland; Department of General Services; Department of Natural Resources; Department of Public Safety and Correctional Services; Department of State Police; Maryland Department of Transportation; Department of Legislative Services

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