

Department of Legislative Services
Maryland General Assembly
2016 Session

FISCAL AND POLICY NOTE
Third Reader

House Bill 76

(Chair, Judiciary Committee)(By Request - Departmental
- State Police)

Judiciary

Judicial Proceedings

Department of State Police - Investigation Authority

This departmental bill expands the authority of members of the Department of State Police (DSP) to act within the limits of a municipal corporation that maintains a police force in order to investigate and enforce specified violations.

Fiscal Summary

State Effect: The bill's changes can be handled with existing budgeted resources.

Local Effect: The bill does not materially affect local government operations or finances.

Small Business Effect: DSP has determined that this bill has minimal or no impact on small business (attached). The Department of Legislative Services concurs with this assessment.

Analysis

Bill Summary: This bill expands the list of crimes for which members of DSP have authority to investigate and enforce within a municipal corporation to include:

- sexual solicitation of a minor (§ 3-324 of the Criminal Law Article);
- misuse of telephone facilities and equipment (§ 3-804 of the Criminal Law Article);
- misuse of electronic mail (§ 3-805 of the Criminal Law Article);
- visual surveillance with prurient intent (§ 3-902 of the Criminal Law Article);

- possession of visual representation of child younger than age 16 engaged in certain sexual acts (§ 11-208 of the Criminal Law Article);
- human trafficking (§ 11-303 of the Criminal Law Article);
- receiving earnings as a prostitute (§ 11-304 of the Criminal Law Article);
- house of prostitution (§ 11-306 of the Criminal Law Article); and
- abduction of a child younger than age 16 (§ 11-305 of the Criminal Law Article).

Current Law: Generally throughout the State, DSP has the same powers, privileges, immunities, and defenses as sheriffs, constables, police officers, and other peace officers possessed at common law and may now or in the future exercise within their respective jurisdictions. DSP may execute an arrest warrant in any part of the State without further endorsement. However, DSP may not act within the limits of a municipal corporation (including Baltimore City) that maintains a police force except:

- when in pursuit of a criminal or suspect;
- when in search of a criminal or suspect wanted for a crime committed outside of the limits of the municipal corporation or when interviewing or seeking to interview a witness or supposed witness to the crime;
- when a crime is committed in the presence of the police employee, and the arrested party must be immediately transferred to the custody of the local law enforcement agency;
- when requested to act by the chief executive officer or chief police officer of the municipal corporation;
- when ordered by the Governor to act within the municipal corporation;
- when enforcing the motor vehicle laws of the State, except in Baltimore City;
- in Baltimore City, only when enforcing Title 23 of the Transportation Article;
- in any building or place when ordered by either the President of the Senate or the Speaker of the House of Delegates to guard the safety of legislators or the integrity of the legislative process;
- to protect the safety of an elected State official;
- in the municipal corporations of Somerset County;
- when enforcing the law relating to child pornography (§ 11-207 of the Criminal Law Article);
- when participating in a joint investigation with officials from another State, federal, or local law enforcement agency at least one of which has local jurisdiction;
- when rendering assistance to a police officer;
- when acting at the request of a local police officer;

- when a sudden or unexpected happening or an unforeseen combination of circumstances that calls for immediate action to protect health, safety, welfare, or property from actual or threatened harm or from an unlawful act exists;
- when acting in accordance with regulations adopted by the Secretary to implement this item;
- when conducting investigations relating to or otherwise enforcing laws relating to unauthorized access to computers and related material (§ 7-302 of the Criminal Law Article); or
- when conducting an investigation of the death of an inmate in the custody of the Division of Correction (§ 9-602.1 of the Correctional Services Article).

A DSP employee may not be placed on detached service and act for a federal department, agency, or committee outside of the State without the written approval of the Governor.

The powers and duties of DSP with respect to law enforcement are supplemental to and concurrent with similar powers and duties conferred by law on other law enforcement agencies of the State in their respective jurisdictions. The duties imposed on DSP are to promote effective cooperation among law enforcement agencies and do not limit the powers or responsibilities of any other law enforcement agency or make any other law enforcement agency subject to the supervision of DSP.

Background: DSP advises that it receives hundreds of criminal complaints monthly from the National Center of Missing and Exploited Children and that not all municipal boundaries are clear. For each criminal complaint, an investigation is conducted and if DSP were to follow a lead into a municipal corporation without specific permission or agreement, the department would not have the authority based on the current statute to (1) investigate the case or (2) make an on-scene arrest. An example of this situation would be if a suspect who resided within a municipal corporation were contacted during an investigative lead and the suspect gave consent for a search. Even with the consent of the suspect, any evidence obtained could be ruled inadmissible in court if DSP were operating outside of its jurisdiction.

Investigations involving missing and exploited children can be complicated and require expanded training and knowledge in order to be successful. With expanded authority, DSP reports that it could expedite the investigation of cases that cross a municipal boundary without creating potential legal technicalities that could lead to a dismissal of the criminal charge. DSP states that the Chief of Police within the municipal corporation will be advised of its presence during an investigation.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): City of Laurel, Maryland Municipal League, Department of State Police, Department of Legislative Services

Fiscal Note History: First Reader - January 21, 2016
min/lgc

Analysis by: Shirleen M. E. Pilgrim

Direct Inquiries to:
(410) 946-5510
(301) 970-5510

ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Department of State Police – Investigation Authority

BILL NUMBER: HB 76

PREPARED BY: Thomas Williams, Director Government Affairs, MSP

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS