

Department of Legislative Services
Maryland General Assembly
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FISCAL AND POLICY NOTE
Third Reader

House Bill 1107

(Delegate Anderson)(By Request - Baltimore City
Administration)

Judiciary

Judicial Proceedings

Baltimore City - Police Officers - Warrantless Arrests

This bill authorizes a Baltimore City police officer without a warrant to arrest a person suspected of having battered a Baltimore City special enforcement officer, special parking enforcement officer, or special traffic enforcement officer under specified circumstances. If the police officer has probable cause to believe that mutual battery occurred and arrest is necessary, the police officer must consider whether one of the persons acted in self-defense when determining whether to arrest the person whom the police officer believes to be the primary aggressor.

Fiscal Summary

State Effect: Potential minimal increase in general fund revenues and expenditures if the ability of a Baltimore City police officer to make a warrantless arrest for an assault against a Baltimore City special enforcement officer, special parking enforcement officer, or a special traffic enforcement officer results in an increase in the number of individuals convicted of assault in Baltimore City.

Local Effect: Potential minimal increase in local revenues from fines imposed in circuit court cases in Baltimore City. Baltimore City expenditures are not affected.

Small Business Effect: None.

Analysis

Bill Summary: The bill authorizes warrantless arrest if a report to the police was made within 48 hours of the alleged incident and the police officer has probable cause to believe

that (1) the person battered a Baltimore City special enforcement officer, special parking enforcement officer, or special traffic enforcement officer; (2) there is evidence of physical injury; and (3) unless the person is arrested immediately, the person may not be apprehended, may cause physical injury or property damage to another, or may tamper with, dispose of, or destroy evidence.

Current Law:

Warrantless Arrests: Generally, for a police officer to be authorized to make an arrest, a judge or District Court commissioner must first issue a warrant based on a finding of probable cause.

A law enforcement officer may, however, make a warrantless arrest when (1) a person commits or attempts to commit a felony or misdemeanor in the officer's presence or within view of the officer; (2) the officer has probable cause to believe that a felony or misdemeanor is being committed in the presence or within the view of the police officer; (3) the police officer has probable cause to believe that a person has committed or attempted to commit a felony, whether or not in the presence or within the view of the police officer; or (4) the officer has probable cause to believe that the person has committed one of a limited number of misdemeanors specified in statute and that unless the person is arrested immediately, the person may not be apprehended, may cause physical harm or property damage, or may tamper with, dispose of, or destroy evidence.

The crimes specified in statute include theft of property valued at less than \$1,000, vehicular manslaughter, malicious burning and mischief, carrying or wearing a concealed weapon, and certain controlled dangerous substance offenses.

A police officer may also arrest a person without a warrant in situations involving domestic abuse and stalking. In addition, an officer is required to arrest with or without a warrant and take into custody any person the officer has probable cause to believe is in violation of an interim, temporary, or final protective order in effect at the time of the violation.

Assault and Battery: The two traditional common law crimes of assault and battery have been codified in Maryland into the two statutory crimes of second-degree assault and first-degree assault. In provisions relating to assault, reckless endangerment, and related crimes, "assault" means the crimes of assault, battery, and assault and battery, which are defined through case law.

Second-degree Assault: A person is prohibited from committing an assault. Violators are guilty of misdemeanor second-degree assault, punishable by imprisonment for up to 10 years and/or a maximum fine of \$2,500.

However, a person commits a *felony* second-degree assault if he/she intentionally causes physical injury to another and the person knows or has reason to know that the other person is a law enforcement officer or parole or probation agent engaged in the performance of the officer/agent's official duties. "Physical injury" means any impairment of physical condition, excluding minor injuries. Violators are subject to imprisonment for up to 10 years and/or a maximum fine of \$5,000. Baltimore City special enforcement officers, special parking enforcement officers, and special traffic enforcement officers are not considered law enforcement officers under the felony second-degree assault statute.

First-degree Assault: A person is prohibited from intentionally causing or attempting to cause serious physical injury to another and committing an assault with a firearm. Violators are guilty of felony first-degree assault, punishable by imprisonment for up to 25 years.

Special Enforcement Officers in Baltimore City: Under the Code of Public Local Laws of Baltimore City, the Commissioner of the Baltimore City Police Department may appoint persons as special enforcement officers and may provide by ordinance for their duties, functions, and procedures as special officers. The officers may issue and serve citations and summonses to appear before the appropriate division of the District Court in proceedings for enforcement of any city code, ordinance, regulation, or provision of public local law pertaining to building, housing, zoning, fire, public health, sanitation, and parks.

Special Parking Enforcement Officers in Baltimore City: Under the Code of Public Local Laws of Baltimore City, the Commissioner of the Baltimore City Police Department has the authority to appoint city employees as special parking enforcement officers, and the Mayor and City Council may provide for the nomination, duties, functions, and procedures of these officers. Special parking enforcement officers may issue parking citations, but they do not have arrest or custodial powers.

Special Traffic Enforcement Officers in Baltimore City: Under the Code of Public Local Laws of Baltimore City, the Commissioner of the Baltimore City Police Department may appoint a Baltimore City employee to be a special traffic enforcement officer and may revoke an appointment at any time. Through ordinance, the Mayor and City Council of Baltimore City may provide for the nomination of special traffic enforcement officers and set the duties, procedures, and functions of these officers. Special traffic enforcement officers have the same authority to control and direct pedestrian and vehicular traffic under State and local laws as a police officer during high-traffic periods, as necessitated by an emergency situation or incident and in connection with a special event. However, these officers do not have the authority to make arrests or issue citations for moving violations other than for a failure to obey lawful traffic direction or traffic control devices.

State Revenues: General fund revenues increase minimally if the bill's provisions increase the amount of fines imposed in the Baltimore City District Court for assault convictions.

State Expenditures: General fund expenditures increase minimally if the bill's provisions result in more people being committed to State correctional facilities for a conviction for assault. The number of people convicted as a result of the bill is expected to be minimal.

Persons serving a sentence longer than 18 months are incarcerated in State correctional facilities. Currently, the average total cost per inmate, including overhead, is estimated at \$3,300 per month. This bill alone, however, should not create the need for additional beds, personnel, or facilities. Excluding overhead, the average cost of housing a new State inmate (including variable health care costs) is about \$770 per month. Excluding all health care, the average variable costs total \$200 per month.

Persons sentenced in Baltimore City are generally incarcerated in State correctional facilities. The Baltimore Pretrial Complex, a State-operated facility, is used primarily for pretrial detentions.

Local Revenues: Baltimore City revenues increase minimally if the bill's provisions increase the amount of fines imposed in the Circuit Court for Baltimore City for assault convictions.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Baltimore City, Department of Legislative Services

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Analysis by: Shirleen M. E. Pilgrim

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