Department of Legislative Services
Maryland General Assembly
2016 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 278 (Senator Lee, *et al.*)

Judicial Proceedings   Judiciary

Criminal Law - Stalking

This bill expands the definition of "stalking" under the State's stalking statute to include a malicious course of conduct that includes approaching or pursuing another person where the person intends to cause or knows or reasonably should have known that the conduct would cause serious emotional distress to another person.

Fiscal Summary

State Effect: Minimal increase in general fund revenues and expenditures due to the bill's expanded application of existing penalty provisions.

Local Effect: Minimal increase in local revenues and expenditures due to the bill's expanded application of existing penalty provisions.

Small Business Effect: None.

Analysis

Current Law: A person may not engage in stalking. Violators are guilty of a misdemeanor, punishable by imprisonment for up to five years and/or a $5,000 maximum fine. A sentence imposed for stalking may be separate from and consecutive to or concurrent with a sentence for any other crime based on the acts establishing a violation of the prohibition.

"Stalking" means a malicious course of conduct that includes approaching or pursuing another person where the person intends to place or knows or reasonably should have known the conduct would place another in reasonable fear (1) of serious bodily injury,

assault in any degree, rape or sexual offense, attempted rape or sexual offense, false imprisonment, or death or (2) that a third person likely will suffer any of these acts.

"Course of conduct" means a persistent pattern of conduct, composed of a series of acts over time that shows a continuity of purpose.

The prohibition does not apply to conduct that is (1) performed to ensure compliance with a court order; (2) performed to carry out a specific lawful commercial purpose; or (3) authorized, required, or protected by local, State, or federal law.

Background: There were 215 violations of the State's stalking statute filed in the District Court during fiscal 2015; there were 7 convictions for stalking in the District Court during that same time period.

During fiscal 2015, the Department of Public Safety and Correctional Services conducted 12 probation intakes for individuals found guilty of stalking.

State Revenues: General fund revenues increase minimally as a result of the bill's expanded application of an existing monetary penalty provision from cases heard in the District Court.

State Expenditures: General fund expenditures increase minimally as a result of the bill's expanded application of an existing incarceration penalty due to more people being committed to State correctional facilities and increased payments to counties for reimbursement of inmate costs. The number of people convicted of this proposed crime 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 serving a sentence of one year or less in a jurisdiction other than Baltimore City are sentenced to local detention facilities. For persons sentenced to a term of between 12 and 18 months, the sentencing judge has the discretion to order that the sentence be served at a local facility or a State correctional facility. Prior to fiscal 2010, the State reimbursed counties for part of their incarceration costs, on a per diem basis, after a person had served 90 days. Currently, the State provides assistance to the counties for locally sentenced inmates and for inmates who are sentenced to and awaiting transfer to the State correctional system. A $45 per diem grant is provided to each county for each day between

12 and 18 months that a sentenced inmate is confined in a local detention center. Counties also receive an additional $45 per day grant for inmates who have been sentenced to the custody of the State but are confined in a local facility. The State does not pay for pretrial detention time in a local correctional facility. 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: Revenues increase minimally as a result of the bill's expanded application of an existing monetary penalty provision from cases heard in the circuit courts.

Local Expenditures: Expenditures increase minimally as a result of the bill's expanded application of an existing incarceration penalty. Counties pay the full cost of incarceration for people in their facilities for the first 12 months of the sentence. A $45 per diem State grant is provided to each county for each day between 12 and 18 months that a sentenced inmate is confined in a local detention center. Counties also receive an additional $45 per day grant for inmates who have been sentenced to the custody of the State but are confined in a local facility. Per diem operating costs of local detention facilities have ranged from approximately $60 to $160 per inmate in recent years.

Additional Information

Prior Introductions: None.

Cross File: HB 155 (Delegate Dumais, *et al.*) - Judiciary.

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

Fiscal Note History: First Reader - February 3, 2016
kb/kdm   Revised - Senate Third Reader - March 18, 2016

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