

Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 993

(Senator Mathias)

Judicial Proceedings

Criminal Law - Threat Against State or Local Official - Law Enforcement
Officer and Correctional Officer

This bill prohibits a person from knowingly and willfully making a threat to take the life of, kidnap, or cause physical injury to a correctional officer or a law enforcement officer. A violator is guilty of a misdemeanor and subject to maximum penalties of a fine of \$2,500 and/or imprisonment for three years.

Fiscal Summary

State Effect: Depending on enforcement, minimal increase in general fund revenues and expenditures due to the application of an existing penalty provision.

Local Effect: Depending on enforcement, minimal increase in local revenues and expenditures due to the application of an existing penalty provision.

Small Business Effect: None.

Analysis

Bill Summary: The bill incorporates the definitions of “correctional officer” and “law enforcement officer” under § 8-201 of the Correctional Services Article and § 3-201 of the Criminal Law Article, respectively.

Under § 8-201 of the Correctional Services Article, a “correctional officer” means a member of a correctional unit whose duties relate to the investigation, care, custody, control, or supervision of inmates and individuals who (1) have been placed on parole or mandatory supervision; (2) have been placed on probation; or (3) have received a

suspended sentence. “Correctional officer” does not include (1) the head or deputy head of a correctional unit or (2) a sheriff, warden, or superintendent or an individual with an equivalent title who is appointed or employed by a unit of government to exercise equivalent supervisory authority.

Under § 3-201 of the Criminal Law Article, a “law enforcement officer” means an individual who (1) in an official capacity is authorized by law to make arrests and (2) is a member of one of a list of specified State and local law enforcement agencies.

“Law enforcement officer” also includes (1) a correctional officer at a correctional facility and (2) an officer employed by the Washington Metropolitan Area Transit Authority Metro Transit Police who is subject to specified jurisdictional limitations.

Current Law: A person may not knowingly and willfully make a threat to take the life of, kidnap, or cause physical injury to a State official, a local official, a deputy State’s Attorney, an assistant State’s Attorney, or an assistant Public Defender. A person may not knowingly send, deliver, part with, or make for the purpose of sending or delivering a prohibited threat. A violator is guilty of a misdemeanor, punishable by imprisonment for up to three years and/or a \$2,500 maximum fine.

“Threat” includes (1) an oral threat or (2) a threat in any written form, whether or not the writing is signed, or if the writing is signed, whether or not it is signed with a fictitious name or any other mark.

“Local official” means an individual serving in a publicly elected office of a local government unit.

“State official” means a:

- constitutional officer or officer-elect in an executive unit;
- member or member-elect of the General Assembly;
- judge or judge-elect;
- judicial appointee;
- State’s Attorney;
- clerk of the circuit court;
- register of wills; or
- sheriff.

“State official” includes the Governor, Governor-elect, Lieutenant Governor, and Lieutenant Governor-elect.

Background: According to the Maryland State Commission on Criminal Sentencing Policy (MSCCSP), a review of the Maryland Sentencing Guidelines Database indicates that, for fiscal 2016, MSCCSP received information for one individual sentenced under § 3-708 of the Criminal Law Article in the circuit courts.

State Revenues: General fund revenues increase minimally from fines imposed in cases heard in the District Court.

State Expenditures: Depending on enforcement, 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.

Data is not available on how frequently correctional officers and law enforcement officers face the types of threats prohibited under the bill, particularly a threat to cause physical injury, which can vary extensively in scope. Assuming that enforcement is limited to more serious threats and not excited utterances made by an individual who has no intention of following through with the threat, the number of people convicted of the proposed expansion of this crime is expected to be minimal. It should also be noted that an individual who physically harms or attempts to harm a law enforcement officer in addition to making threats faces additional criminal charges under existing statute.

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 \$3,600 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 \$800 per month. Excluding all health care, the average variable costs total \$210 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; beginning October 1, 2017, counties may receive the additional \$45 per day grant for inmates sentenced to the custody of the State who receive reentry or other prerelease programming and services from 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 from fines imposed in cases heard in the circuit courts.

Local Expenditures: Using the assumptions discussed above, expenditures increase minimally as a result of the bill's expanded application of an existing incarceration penalty.

The impact of the bill varies by county. For instance, Kent, Washington, and Worcester counties do not anticipate a fiscal impact from the bill. With respect to a similar bill, Prince George's County advises that, due to the lack of data on the frequency with which the acts prohibited under the bill occur, the county is unable to determine the impact of the bill on county operations. However, the county also notes that the bill may potentially result in a large number of arrests and prosecutions previously unaccounted for.

The Baltimore City Police Department advises that the bill does not have a significant fiscal or operational impact. The Office of the State's Attorney for Baltimore City advises that any increase in cases is likely minimal.

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; beginning October 1, 2017, counties may receive the additional \$45 per day grant for inmates sentenced to the custody of the State who receive reentry or other prerelease programming and services from 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: HB 1054 of 2015, a substantially similar bill, received a hearing in the House Judiciary Committee. No further action was taken on the bill.

Cross File: None designated. However, HB 828 (Delegate Folden – Judiciary) is substantially similar.

Information Source(s): Baltimore City; Kent, Montgomery, Prince George’s, Washington, and Worcester counties; Maryland State Commission on Criminal Sentencing Policy; Department of State Police; Office of the Public Defender; Department of Public Safety and Correctional Services; State’s Attorneys’ Association; Department of Legislative Services

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