

Department of Legislative Services  
Maryland General Assembly  
2020 Session

FISCAL AND POLICY NOTE  
Third Reader - Revised

House Bill 233  
Judiciary

(Delegate Pippy, *et al.*)

Judicial Proceedings

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Criminal Law – Assault in the First Degree – Strangulation

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This bill expands the crime of felony first-degree assault to include the commission of an assault by intentionally “strangling” another. “Strangling” is defined as impeding the normal breathing or blood circulation of another person by applying pressure to the other person’s throat or neck. A violator is subject to the existing statutory penalty for felony first-degree assault of imprisonment for up to 25 years.

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Fiscal Summary

**State Effect:** Minimal decrease in general fund revenues from fines imposed in the District Court. Minimal increase in general fund expenditures as a result of the bill’s expanded application of existing incarceration penalties.

**Local Effect:** Minimal decrease in local revenues from fines imposed in circuit court cases. Minimal decrease in local expenditures if the bill shifts defendants from local detention facilities to State correctional facilities.

**Small Business Effect:** None.

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Analysis

**Current Law:** A person may not commit an assault. However, the consequences of an assault vary depending on the circumstances involved.

*First-degree Assault*

A person commits a first-degree assault if he/she (1) intentionally causes or attempts to cause serious physical injury to another person or (2) commits an assault with a firearm,

including a handgun, assault pistol, machine gun, or other specified firearms. A person who commits a first-degree assault is guilty of a felony and subject to imprisonment for up to 25 years.

“Serious physical injury” means physical injury that:

- creates a substantial risk of death; or
- causes permanent or protracted serious disfigurement, loss of the function of any bodily member or organ, or impairment of the function of any bodily member or organ.

### *Felony Second-degree Assault*

A person commits a felony second-degree assault if he/she intentionally causes “physical injury” to another and knows or has reason to know that the other person is (1) a law enforcement officer or parole or probation agent engaged in the performance of the officer/agent’s official duties or (2) a firefighter, an emergency medical technician, a rescue squad member, or any other first responder engaged in providing emergency medical care or rescue services. “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.

### *Misdemeanor Second-degree Assault*

The misdemeanor second-degree assault statute applies to assaults that are not considered to be felony assaults in the first or second degree. Under the misdemeanor second-degree assault statute, a person is prohibited from committing an assault. A violator is subject to imprisonment for up to 10 years and/or a maximum fine of \$2,500. Assault means the crimes of assault, battery, and assault and battery, which are defined through case law.

**Background:** The Department of Public Safety and Correctional Services advises that it conducted intake at its correctional facilities for 957 individuals convicted of misdemeanor second-degree assault during fiscal 2017. The average sentence for this population was 41 months.

**State Revenues:** General fund revenues decrease if misdemeanor second-degree assault cases in the District Court are prosecuted as felony first-degree assault cases in the circuit courts. This estimate assumes that in some cases, the behavior classified as first-degree assault under the bill is currently being prosecuted as misdemeanor second-degree assault.

**State Expenditures:** General fund expenditures increase minimally as a result of the bill’s expanded application of the first-degree assault incarceration penalty due to more people

being committed to State correctional facilities and longer incarcerations. The number of people convicted under the bill's provisions 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 \$3,700 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. The State provides assistance to the counties for locally sentenced inmates and for (1) inmates who are sentenced to and awaiting transfer to the State correctional system; (2) sentenced inmates confined in a local detention center between 12 and 18 months; and (3) inmates who have been sentenced to the custody of the State but are confined in or 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:** Local revenues decrease minimally as a result of fewer monetary penalties from circuit court misdemeanor second-degree assault cases. Any increase in circuit court caseloads from cases shifted from the District Court does not affect local revenues, since felony first-degree assault does not carry a monetary penalty.

**Local Expenditures:** Expenditures decrease minimally if more individuals are incarcerated in State correctional facilities as a result of the bill. Counties pay the full cost of incarceration for people in their facilities for the first 12 months of the sentence. Per diem operating costs of local detention facilities have ranged from approximately \$40 to \$170 per inmate in recent years.

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### **Additional Information**

**Prior Introductions:** SB 1154 of 2017, a similar bill, received a hearing in the Senate Judicial Proceedings Committee, but no further action was taken.

**Designated Cross File:** SB 212 (Senator Lee, *et al.*) - Judicial Proceedings.

**Information Source(s):** Kent, Montgomery, and Worcester counties; City of Westminster; towns of Bel Air and Leonardtown; Maryland State Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Office of the Public

Defender; Maryland State's Attorneys' Association; Department of Public Safety and Correctional Services; Department of State Police; Department of Legislative Services

**Fiscal Note History:** First Reader - January 24, 2020  
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