

Department of Legislative Services

Maryland General Assembly

2013 Session

FISCAL AND POLICY NOTE

House Bill 394

(Delegate McDermott, *et al.*)Ways and Means

Education - Primary and Secondary Schools - Electronic Control Devices

This bill authorizes a principal of a primary or secondary school to designate one or more “safety officers” and make one or more “electronic control devices” (ECDs) available for use by trained safety officers in the school. The Maryland Police and Correctional Training Commissions (MPCTC), in collaboration with the Maryland State Department of Education (MSDE), must develop and administer a specified ECD training program for safety officers, establish standards for use of an ECD by a safety officer, and establish criteria for the designation of an individual as a safety officer. A safety officer must satisfactorily complete the training developed by MPCTC before using or carrying an ECD in a school. The bill also specifies reporting requirements for each participating school.

Fiscal Summary

State Effect: None. The bill’s requirements for the development of a school safety officer ECD program can be accommodated with the existing budgeted resources of the Department of Public Safety and Correctional Services and MSDE.

Local Effect: The designation of school safety officers can be accommodated with the existing budgeted resources of local school systems. To the extent local school systems utilize the authorization, local expenditures increase for school systems to purchase ECDs and cartridges and to pay for any training. Potential increase in liability costs for insurance and potential litigation.

Small Business Effect: Minimal.

Analysis

Bill Summary: Each school must promptly submit to the school's county board the name of each trained safety officer and report each time a safety officer discharges an ECD. The bill enumerates specified information that must be included in each report.

"Safety officer" means a school principal, school administrator, law enforcement officer, teacher, counselor, or other individual who is designated by a school principal to carry and use an ECD to help maintain the security and safety of a school.

"Electronic control device" means a portable device designed as a weapon capable of injuring, immobilizing, or inflicting pain on an individual by the discharge of electrical current.

Current Law:

Electronic Control Devices

A person is prohibited from possessing or using an ECD unless the person is at least 18 years old and has never been convicted of a crime of violence or a specified drug crime.

An ECD is prohibited from being sold and activated unless (1) an instructional manual or audio or audiovisual instructions are provided to the purchaser; (2) the manufacturer maintains a record of the original owner of the device; and (3) the manufacturer or seller has obtained a State and federal criminal history records check of the original owner.

The illegal possession or use of an ECD is a misdemeanor and a violator is subject to maximum penalties of two months imprisonment and/or a \$500 fine. If the violation occurs while the person is committing a separate felony, the violator is guilty of a felony and subject to maximum penalties of three years imprisonment and/or a \$5,000 fine.

A local government is not prohibited from adopting a restriction or requirement concerning the possession of an ECD that is more stringent than what is specified under State law.

Chapters 320 and 321 of 2009 (SB 850/HB 539) required MPCTC to add entrance-level and annual in-service training in the proper use of ECDs to curricula for police and correctional officers who are issued an ECD by a law enforcement agency, consistent with established law enforcement standards and federal and State constitutional provisions.

Chapters 78 and 79 of 2011 (SB 652/HB 507) require law enforcement agencies to annually report on the use of an ECD. The law terminates after September 30, 2016.

Carrying a Deadly Weapon on School Property

A person is prohibited from carrying or possessing a firearm, knife, or deadly weapon of any kind on any public school property. A person who violates this prohibition using any weapon other than a handgun is guilty of a misdemeanor and subject to maximum penalties of imprisonment for three years, a fine of \$1,000, or both.

Background: Some local school systems have memorandums of understanding with local law enforcement agencies to have specially trained officers, known as school resource officers (SROs), in schools. MSDE reports that there are 302 SROs for the 1,437 public schools in the State. These officers are generally off-duty local law enforcement officers, and some may be equipped with ECDs.

In 2010, the U.S. Department of Education awarded MSDE a \$3.1 million Safe and Supportive School grant to help measure school safety at the building level and assist in helping those schools with the greatest safety needs. The Governor's proposed fiscal 2014 capital budget includes \$25 million for statewide public school security improvements.

Stun guns and other ECDs, such as those made by TASER International, Inc., are employed to disrupt the body's electrical system and to temporarily incapacitate the person. While some questions of safety and effectiveness have arisen from time to time as to the use of such devices, ECDs are used by most law enforcement agencies.

The cost of ECDs vary. TASER products cost between \$500 and \$1,100, with additional costs of about \$25 for cartridges, which would be necessary for training requirements. It is assumed that some other brands may sell for less, but are unlikely to be available for much less than \$400, plus the cost for cartridges.

State/Local Fiscal Effect: The development and administration of an ECD training program for safety officers, the establishment of standards for use of an ECD by a safety officer, and the establishment of criteria for the designation of an individual as a safety officer can be handled with the existing budgeted resources of MPCTC and MSDE.

MPCTC does not currently provide ECD training for law enforcement officers; although it does administer ECD training programs that are provided by law enforcement agencies and academies in the State. Administration of these programs entails certifying instructors authorized to provide the training, auditing the training provided by agencies

and academies, and keeping records on the training provided to each individual law enforcement officer.

The extent to which the bill's authorization is utilized by individual schools or county systems is unknown. Actual training would be carried out through a local law enforcement agency or training academy that provides the training through MPCTC-certified instructors close to the geographical location of the safety officer. However, the Department of Legislative Services assumes that actual utilization only occurs when individual schools or school systems can readily absorb purchase and maintenance costs for ECDs, as well as any training costs that may be charged by local training facilities. Currently, such training is only provided to law enforcement officers and correctional officers. If certified by MPCTC, some private training may be available through manufacturers such as TASER International, Inc.

The bill is also likely to increase liability insurance costs for participating schools and school systems and has the potential to increase litigation.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Kent and Washington counties, Baltimore City, Maryland State Department of Education, Department of Public Safety and Correctional Services, <http://store.taser.com/>, Department of Legislative Services

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