

Department of Legislative Services
Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE

Senate Bill 797

(Senator Montgomery, *et al.*)

Judicial Proceedings

Criminal Law - Assault - First Responders

This bill expands provisions prohibiting felony second degree assault to include the intentional causing of physical injury to another person by a person who knows or has reason to know that the victim is a firefighter, an emergency medical technician, a rescue squad member, or any other first responder engaged in providing emergency medical care or rescue services.

Fiscal Summary

State Effect: The bill does not materially affect State finances, as discussed below.

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

Small Business Effect: None.

Analysis

Current Law:

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.

Felony Second Degree Assault: A person commits a felony second degree assault if he/she intentionally causes physical injury to another if 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.

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 degrees. 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: According to the Maryland State Commission on Criminal Sentencing Policy, there were 20 convictions for felony second degree assault in the State's circuit courts during fiscal 2013.

State Fiscal Effect: Given that the maximum incarceration penalty for misdemeanor second degree assault is the same as the maximum incarceration penalty for felony second degree assault, this bill is not expected to materially affect State finances. This fiscal and policy note assumes that the acts affected by this bill would be prosecuted as misdemeanor second degree assaults under the existing second degree assault law and that the bill's specification of these acts as felony second degree assaults based on the victim of the crime will not increase the likelihood of charges being filed and convictions being secured in these cases.

However, it should be noted that changing crimes from misdemeanors to felonies means that (1) such cases are likely to be filed in the circuit courts rather than the District Court and (2) some persons may eventually serve longer incarcerations due to enhanced penalty provisions applicable to some offenses for prior felony convictions. Accordingly, it is assumed that this bill shifts an unknown number of cases from the District Court to the circuit courts. It is not known whether such a prospective shift may spur more plea bargains and affect actual sentencing practices for this offense.

The Office of the Public Defender (OPD) advises that the bill has a fiscal impact because felonies require more preparation and casework than misdemeanor cases. However, given the number of cases likely to be affected by the bill, it is unlikely that the bill has a significant impact on OPD workloads.

Additional Information

Prior Introductions: None.

Cross File: HB 1183 (Delegate Malone) - Judiciary.

Information Source(s): Baltimore, Dorchester, Garrett, and Montgomery counties; Maryland State Commission on Criminal Sentencing Policy; Maryland Institute for Emergency Medical Services Systems; Judiciary (Administrative Office of the Courts); Office of the Public Defender; State's Attorneys' Association; Department of Legislative Services

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