

Department of Legislative Services
Maryland General Assembly
2019 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1150
Judiciary

(Delegate Metzgar, *et al.*)

Criminal Law - Assault on Public Transportation Operator - Penalties and Reporting

This bill expands the crime of 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 bus, train, or light rail operator, or the operator of any other vehicle engaged in providing public transportation services (public transit operator). The bill also requires each State and local transportation authority and the Office of Attorney General (OAG) to report specified information each year. The Attorney General may adopt regulations that are necessary to carry out the bill's reporting requirements.

Fiscal Summary

State Effect: Potential minimal increase in general fund revenues. Expenditures are not materially affected, as discussed below.

Local Effect: Potential minimal increase in local revenues. Expenditures are not materially affected, as discussed below.

Small Business Effect: None.

Analysis

Bill Summary: Each State and local transportation authority engaged in providing public transportation services must report to the Attorney General the following information on assaults committed against public transit operators who were employed by the authority or a contractor of the authority during the previous year:

- the number of assaults committed;
- the nature and extent of any injuries suffered by the employee;
- whether the alleged perpetrator was apprehended; and
- the status of any criminal prosecution taken against an alleged perpetrator.

OAG must report to the Governor and the General Assembly on the incidence of assault in the State against public transit operators by December 31 of each year. The first report is due by December 31, 2020.

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.

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 (1) 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 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.

The District Court has concurrent jurisdiction with the circuit courts over felony second-degree assaults.

Background: The Maryland Transit Administration (MTA) has historically advised that the agency averages 50 operator assault incidents annually across all transit modes affected by the bill. **Exhibit 1** contains information on operator assaults against MTA employees from calendar 2013 through 2017.

Exhibit 1
Assault Incidents Against MTA Transportation Operators
Calendar 2013-2017

	<u>2013</u>	<u>2014</u>	<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>Average</u>
Spit	8	17	13	12	19	14
Struck by patron/other	7	4	13	21	14	12
Bus struck by thrown object	3	1	1	5	10	4
Operator struck by thrown object	3	10	8	12	17	10
Sexual assault	0	1	0	0	0	0
Unknown	32	18	0	0	0	10
Total	53	51	35	50	60	50

Source: Maryland Transit Administration

According to the Judiciary, there were 533 violations of felony second-degree assault filed in the District Court and 229 violations of felony second-degree assault filed in the circuit courts during fiscal 2018. With respect to misdemeanor second-degree assault, 38,482 violations were filed in the District Court and 12,661 violations were filed in circuit courts during fiscal 2018. Data is not available on how many of the victims were public transit operators.

State Fiscal Effect: General fund revenues may increase minimally from fines imposed in the District Court. The maximum fine for misdemeanor second-degree assault is \$2,500; the maximum fine for felony second-degree assault is \$5,000. 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 incarceration expenditures.

The District Court has concurrent jurisdiction with the circuit courts for felony violations under § 3-203(c) of the Criminal Law Article, to which the bill is drafted. 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 more stringent 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.

OAG advises that it needs one part-time assistant Attorney General to comply with the bill's reporting requirements, with costs ranging from \$45,603 in fiscal 2020 to \$60,200 in fiscal 2024. The Department of Legislative Services advises that since the required OAG report is a compilation of reports submitted by State and local transportation authorities, OAG can handle the bill's reporting requirements with existing budgeted resources.

MTA can submit the required annual report to OAG using existing resources.

Local Fiscal Effect: Local revenues may increase minimally from fines imposed in circuit court cases. Because the incarceration penalty for felony and misdemeanor assault in the second degree is the same, local incarceration expenditures are not likely to be affected.

It is assumed that local transportation agencies can submit the required annual reports to OAG using existing resources.

Additional Information

Prior Introductions: HB 28 of 2018, a similar bill, received an unfavorable report from the House Judiciary Committee.

Cross File: None.

Information Source(s): Worcester County; Maryland Association of Counties; City of Westminster; Town of Leonardtown; Maryland Department of Transportation; Department of Legislative Services

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