

Department of Legislative Services
Maryland General Assembly
2020 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1302
Judiciary

(Delegate Ciliberti, *et al.*)

Criminal Law - Felony Second-Degree Assault - Emergency Medical Care
Workers

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 worker who is providing emergency and related services in an emergency department at a hospital, or a freestanding medical facility.

Fiscal Summary

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

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

Small Business Effect: None.

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.

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 (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.

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

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.

Hospitals and Freestanding Medical Facilities

Section 19-301 of the Health-General Article defines a “hospital” as an institution that (1) has a group of at least five physicians who are organized as a medical staff for the institution; (2) maintains facilities to provide, under the supervision of the medical staff, diagnostic and treatment services for two or more unrelated individuals; and (3) admits or retains the individuals for overnight care.

Section 19-3A-01 of the Health-General Article defines a “freestanding medical facility” as a facility (1) in which medical and health services are provided; (2) that, with one specified exception, is physically separate from a hospital or hospital grounds; (3) that is an administrative part of a hospital; and (4) that meets the requirements for provider-based status under the certification for an affiliated hospital as set forth by the Centers for Medicare and Medicaid Services in 42 CFR. § 413.65.

Background: According to the Judiciary, there were 652 violations of felony second-degree assault filed in the District Court and 209 violations of felony second-degree

assault filed in the circuit courts during fiscal 2019. With respect to misdemeanor second-degree assault, 38,100 violations were filed in the District Court and 11,793 violations were filed in the circuit courts during fiscal 2019. Data is not available on how many of the victims were emergency medical care workers. A violation is a charge filed with the court. It is not a conviction, and one person may be associated with multiple violations.

The Maryland State Commission on Criminal Sentencing Policy advises that based on a review of the Maryland Sentencing Guidelines Database, 17 individuals were sentenced on 18 counts of felony second-degree assault in the State's circuit courts during fiscal 2019.

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.

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.

Additional Information

Prior Introductions: HB 894 of 2019 received a hearing in the House Judiciary Committee, but no further action was taken.

Designated Cross File: None.

Information Source(s): Baltimore City; Wicomico County; 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 Legislative Services

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