

Department of Legislative Services
Maryland General Assembly
2021 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 91

(Senators Waldstreicher and McCray)

Judicial Proceedings

Criminal Law - Assault of a Public Transportation Operator - Penalties

This bill expands the prohibition on 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 operator, a train operator, a light rail operator, or any other individual engaged in providing public transportation services. Violators are guilty of a felony and subject to the existing statutory penalties of imprisonment for up to 10 years and/or a \$5,000 maximum fine.

Fiscal Summary

State Effect: Potential minimal increase in general fund revenues from fines imposed in the District Court. State expenditures are not materially affected, as discussed below.

Local Effect: Potential minimal increase in local revenues from fines imposed in the circuit courts due to the bill's expanded application of an existing monetary penalty. Local expenditures are not materially affected.

Small Business Effect: Minimal.

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 or she (1) intentionally causes or attempts to cause serious physical injury to another person; (2) commits an assault with a firearm, including a handgun, assault pistol, machine gun, or other specified firearms; or (3) intentionally strangles another person. 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 or she intentionally causes “physical injury” to another person and 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.

State Fiscal Effect: General fund revenues may increase minimally from fines imposed in the District Court. State expenditures are not materially affected.

The Maryland Department of Transportation advises that 43 and 60 claims for assaults on drivers were filed in fiscal 2019 and 2020, respectively.

The District Court has concurrent jurisdiction with the circuit courts over felony second-degree assaults. 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. This fiscal and policy note assumes that the acts affected by this bill are 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 does not increase the likelihood of charges being filed and convictions being secured in these cases.

The Office of the Public Defender (OPD) advises that reclassification of an assault on a public transportation provider from a misdemeanor to a felony increases the likelihood of litigation and increases the amount of preparation time public defenders spend on these cases. However, the Department of Legislative Services advises that given the low number of cases to which the bill is likely to apply, the bill is unlikely to have a material effect on OPD expenditures.

Additional Information

Prior Introductions: HB 1150 of 2019, a similar bill, received a hearing in the House Judiciary Committee, but no further action was taken. HB 683 of 2018 received an unfavorable report from the House Judiciary Committee.

Designated Cross File: None.

Information Source(s): Maryland Association of Counties; Maryland Municipal League; 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; Maryland Department of Transportation; Department of Legislative Services

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