

Department of Legislative Services
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FISCAL AND POLICY NOTE
First Reader

Senate Bill 551 (Senator Carter)
Judicial Proceedings

Criminal Procedure – Fresh Pursuit by Law Enforcement – Requirements and Prohibitions

This bill establishes requirements and prohibitions for law enforcement officers engaged in a fresh pursuit of a person in a vehicle. The bill also requires the Department of State Police (DSP), notwithstanding any other provision of law, to conduct a specified investigation if a serious injury or death occurs as the result of a fresh pursuit.

Fiscal Summary

State Effect: Potential minimal decrease in general fund fine revenues and incarceration expenditures if the bill results in fewer arrests and, therefore, fewer fines imposed in District Court cases and fewer incarcerations. DSP advises that it already conducts investigations consistent with the bill’s requirement; accordingly, this provision is not anticipated to materially affect DSP expenditures.

Local Effect: Potential minimal decrease in local fine revenues and incarceration expenditures if the bill results in fewer arrests and, therefore, fewer fines imposed in circuit court cases and fewer incarcerations.

Small Business Effect: None.

Analysis

Bill Summary: A law enforcement officer is prohibited from engaging in fresh pursuit of a person in a vehicle unless (1) the law enforcement officer has actual knowledge that the person in the vehicle has committed a dangerous act; (2) the person poses an imminent danger to the community; (3) the law enforcement officer knows or has reason to know

that the person in the vehicle cannot be pursued in another way, as specified; and (4) the law enforcement officer has received supervisory approval from a supervisor not involved in the fresh pursuit. During the course of a fresh pursuit of a person by a vehicle, a law enforcement officer is prohibited from engaging in pursuit interventions and caravanning, driving against the flow of traffic, and reaching inside the pursued vehicle while it is moving or under the control of the person being pursued.

A law enforcement officer must use de-escalation techniques, to the extent practicable, before engaging in fresh pursuit of a person. During the course of a fresh pursuit of a person by vehicle, a law enforcement officer must (1) use emergency lights and sirens on all vehicles; (2) summon a police helicopter as soon as practicably possible if one is available within the jurisdiction in which the law enforcement officer is located; (3) not exceed the posted speed limit by more than 15 miles per hour in residential areas and more than 25 miles per hour in commercial areas; (4) in residential urban areas, come to a complete and full stop at all intersections, and in residential nonurban areas and commercial areas, slow down and clear all intersections of all cross traffic before continuing to pursue; and (5) update a supervisor of the suspected speed and traffic violations committed by the person being pursued.

If a police helicopter engages in a fresh pursuit of a person, a law enforcement officer in a vehicle may follow in the general direction of the pursuit while obeying all traffic laws.

“Caravanning” means the practice, during a vehicle fresh pursuit, of more than two emergency vehicles traveling in a relative single file, with less than sufficient reactionary distance between the vehicles to adjust for sudden movements or actions by the preceding vehicles.

“Dangerous act” means (1) murder or attempted murder; (2) arson in the first degree; (3) rape in the first degree; (4) assault in the first degree; (5) robbery; (6) kidnapping; (7) transporting explosives without the proper authorization; or (8) transporting hazardous materials.

“Pursuit intervention” means an attempt to terminate the ability of a person being pursued to continue to flee in a vehicle and includes boxing in, roadblock procedures, low-speed maneuvers causing the pursued vehicle to spin out of control and come to a stop, and ramming.

Current Law:

Fresh Pursuit: Fresh pursuit is pursuit that is continuous and without unreasonable delay and does not need to be instant pursuit. A law enforcement officer may engage in fresh pursuit of a person who (1) has committed or is reasonably believed by the law enforcement

officer to have committed a felony in the jurisdiction in which the law enforcement officer has the power of arrest or (2) has committed a misdemeanor in the presence of the law enforcement officer in the jurisdiction in which the law enforcement officer has the power of arrest. A law enforcement officer who is engaged in fresh pursuit of a person may (1) arrest the person anywhere in the State and hold the person in custody and (2) return the person to the court with jurisdiction for the crime allegedly committed by the person.

In determining whether the pursuit meets the elements of fresh pursuit, a court must apply the requirements of the common law definition of fresh pursuit that relates to these elements. Under common law, fresh pursuit generally means the immediate and continuous pursuit by police officers of a suspect who is fleeing to avoid arrest that gives the officers the right to cross jurisdictional lines in order to make an arrest.

Fleeing and Eluding: If a police officer gives an audible or visual signal to stop and the police officer is in uniform, prominently displaying a badge or other insignia, the vehicle driver may not attempt to elude the police officer by willfully failing to stop the vehicle, fleeing on foot, or any other means. If a police officer gives an audible or visual signal to stop and the officer is in an appropriately marked official police vehicle, whether or not the officer is in uniform, the vehicle driver may not attempt to elude the officer by willfully failing to stop the vehicle, fleeing on foot, or any other means. A visual or audible signal includes a signal by hand, voice, emergency light, or siren. A person who is convicted of fleeing or eluding police is guilty of a misdemeanor and is subject to maximum penalties of imprisonment for one year and/or a fine of \$1,000. For any subsequent offense, a person is subject to maximum penalties of imprisonment for two years and/or a fine of \$1,000.

A vehicle driver is also prohibited from attempting to elude a police officer by willfully failing to stop the vehicle such that it results in the bodily injury to or death of another person. A person who causes bodily injury in this manner is subject to three years imprisonment and/or a maximum fine of \$5,000. A person who causes the death of another person after fleeing or eluding police is guilty of a misdemeanor and is subject to maximum penalties of 10 years imprisonment and/or a fine of \$5,000.

Police Training: The Maryland Police Training and Standards Commission (MPTSC), an independent commission within the Department of Public Safety and Correctional Services, operates approved police training schools and prescribes standards for and certifies schools that offer police and security training. Pursuant to MPTSC standards, the curriculum and minimum courses of study must include use of force de-escalation training, as specified. This requirement applies to in-service level police training every two years and entrance-level training conducted by the State and each county and municipal police training school. In addition, MPTSC has the power and duty to adopt and recommend a set of best practices and standards for the use of force.

Deaths Caused by Police Officers: Chapter 132 of 2021 established an independent investigative unit within the Office of the Attorney General to investigate all alleged or potential police-involved deaths of civilians. A law enforcement agency must notify the independent investigative unit of any alleged or potential police-involved death of a civilian as soon as the agency becomes aware of the incident and cooperate with the unit in connection with the investigation. The Governor must annually include funding in the State budget sufficient to provide for the full and proper operation of the unit.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Howard and Prince George's counties; City of Annapolis; Judiciary (Administrative Office of the Courts); Department of State Police; Maryland Department of Transportation; Department of Legislative Services

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