

Department of Legislative Services
Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE

Senate Bill 394

(Senator Forehand, *et al.*)

Judicial Proceedings

**Criminal Procedure - Pretrial Release - Violation of "No Contact" -
Penalty**

This bill makes it a misdemeanor to violate a condition of pretrial release that requires a defendant to have no contact with the alleged victim or the alleged victim's premises or place of employment. A violator is subject to maximum penalties of a \$1,000 fine and/or 90 days imprisonment for a first offense, and a \$2,500 fine and/or one year imprisonment for a second or subsequent offense. The bill also requires an officer to arrest and take into custody a person who the officer has probable cause to believe is in violation of this condition.

Fiscal Summary

State Effect: Potential minimal increase in general fund revenues and expenditures due to the bill's penalty provision. Any increase in the workload of the Division of Parole and Probation and the District Court could be handled with existing resources.

Local Effect: Potential minimal increase in revenues and expenditures due to the bill's penalty provision.

Small Business Effect: None.

Analysis

Current Law: The court or a District Court commissioner must consider including reasonable protections for the safety of any alleged victim as a condition of pretrial release for a defendant. If the victim has requested reasonable protections for safety, the

court or a District Court commissioner must consider including provisions that prohibit contact with the alleged victim or the alleged victim's premises or place of employment.

A court may issue a bench warrant for the arrest of a defendant who violates a condition of pretrial release. Once the defendant is presented before a court, the court may revoke the defendant's pretrial release or continue the defendant's pretrial release with or without conditions.

Background: The penalties established by this bill are identical to those for violation of a "no contact" provision of an interim, temporary, or final protective order. Law enforcement is required to arrest, with or without a warrant, a person who the officer has probable cause to believe is in violation of an active interim, temporary, or final protective order.

State Revenues: General fund revenues could increase minimally as a result of the bill's monetary penalty provisions from cases heard in the District Court.

State Expenditures: General fund expenditures could increase minimally as a result of the bill's incarceration penalty due to increased payments to counties for reimbursement of inmate costs and more people being committed to the Division of Correction (DOC) facilities.

Generally, persons serving a sentence of one year or less in a jurisdiction other than Baltimore City are sentenced to a local detention facility. The State reimburses counties for part of their incarceration costs, on a per diem basis, after a person has served 90 days. State per diem reimbursements for fiscal 2009 are estimated to range from \$19 to \$71 per inmate depending upon the jurisdiction. Persons sentenced to such a term in Baltimore City are generally incarcerated in a DOC facility. Currently, the DOC average total cost per inmate, including overhead, is estimated at \$2,600 per month. This bill alone, however, should not create the need for additional beds, personnel, or facilities. Excluding overhead, the average cost of housing a new DOC inmate (including medical care and variable costs) is \$526 per month. Excluding medical care, the average variable costs total \$148 per month.

The new category of crime established under this bill creates a new offender population that could potentially increase the caseload of the Division of Parole and Probation. Any increase in the workload is expected to be absorbable within existing budgeted resources.

Likewise, additional workload for the District Court is expected to be absorbable within existing resources.

Local Revenues: Revenues could increase minimally as a result of the bill's monetary penalty provision from cases heard in the circuit courts.

Local Expenditures: Expenditures could increase as a result of the bill's incarceration penalty. Counties pay the full cost of incarceration for the first 90 days of the sentence, plus part of the per diem cost after 90 days. Per diem operating costs of local detention facilities are expected to range from \$40 to \$129 per inmate in fiscal 2009.

Additional Information

Prior Introductions: None.

Cross File: HB 181 (Delegate Dumais, *et al.*) – Judiciary.

Information Source(s): Judiciary (Administrative Office of the Courts), Department of Public Safety and Correctional Services, Department of Legislative Services

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ncs/jr

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