

Department of Legislative Services
 Maryland General Assembly
 2012 Session

FISCAL AND POLICY NOTE
 Revised

House Bill 1146
 Judiciary

(Delegate Dumais, *et al.*)

Judicial Proceedings

Domestically Related Crimes - Reporting

This bill requires the court, on request of a State’s Attorney, to make a finding of fact, based on evidence produced at trial, as to whether a crime for which the defendant is convicted or receives a probation before judgment disposition is a “domestically related crime.” A “domestically related crime” is a crime committed by a defendant against a victim who (1) is a “person eligible for relief,” as defined in the law relating to protective orders; or (2) had a sexual relationship with the defendant within 12 months before the commission of the crime. The State must prove by a preponderance of the evidence that the crime is a domestically related crime. If the court finds that the crime is a domestically related crime, that finding must become part of the court record for purposes of reporting to the Criminal Justice Information System Central Repository.

Fiscal Summary

State Effect: General fund expenditures increase by \$78,000 in FY 2013 only for computer reprogramming at the Judiciary. Revenues are not affected.

(in dollars)	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	78,000	0	0	0	0
Net Effect	(\$78,000)	\$0	\$0	\$0	\$0

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: The bill’s requirements can be handled by the circuit courts and State’s Attorney’s Offices using existing resources.

Small Business Effect: None.

Analysis

Current Law: Maryland does not currently distinguish “domestically related crimes.”

Only a “person eligible for relief” may file a petition for a protective order under the Family Law Article. A person eligible for relief includes:

- a current or former spouse of the respondent;
- a cohabitant of the respondent;
- a person related to the respondent by blood, marriage, or adoption;
- a parent, stepparent, child, or stepchild of the respondent or the person eligible for relief who resides or resided with the respondent or person eligible for relief for at least 90 days within one year before the filing of the petition;
- a vulnerable adult; or
- an individual who has a child in common with the respondent.

Background: Maryland has not established a statutory crime of domestic violence. According to information compiled by the Department of Legislative Services in 2011, 35 states have established a statutory crime or crimes of domestic violence that apply to first-time offenders, and most of these states have also established enhanced penalties for repeat offenders. Enactment of a crime of domestic violence by a state tends to highlight how this type of offense is regarded as an especially serious infraction, compared to other assault and battery type offenses, as states are likely to impose more stringent penalties and attach additional conditions that are not typically applied to an assault and/or battery offense.

Generally, a crime involving assault and/or battery against a family or household member is designated by a state as a crime of domestic violence. Some states also specifically include intimate relationships between partners that are not married or, in some cases, dating relationships. However, the designation of criminal behavior can also vary as some states isolate specific actions to criminalize, such as strangulation, or injury to a pregnant victim. While most states that have enacted legislation identify a type of assault and/or battery as the underlying criminal behavior for the domestic violence crime, two states (Rhode Island and Utah) have taken a different approach by incorporating a large number of different types of criminal behaviors as domestic abuse behaviors if the crimes were committed against a family or household member.

Of the 35 states that have established a domestic crime that applies to first-time offenders, 15 states (California, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota,

Mississippi, Montana, Nevada, North Carolina, North Dakota, Ohio, Virginia, and West Virginia) have classified their crimes as misdemeanor offenses. Fifteen states (Alabama, Arizona, Arkansas, Georgia, Hawaii, Idaho, Missouri, Nebraska, New Mexico, Oklahoma, Rhode Island, South Carolina, Tennessee, Utah, and Vermont) have established felony crimes in addition to their misdemeanor crimes. Three states (Florida, Texas, and Wyoming) have classified their domestic violence crimes as felonies. The domestic crimes established in Louisiana are not classified as either misdemeanors or felonies and in Maine, the crime is designated as “Class D”; however, the penalty is similar to that established by other states for misdemeanor crimes of domestic violence.

According to the State Police *Uniform Crime Report* issued for calendar 2010, 17,931 domestic violence crimes were reported in Maryland, a 3.4% decrease compared to the calendar 2009 total of 18,556. Assault was by far the most frequently reported crime, with 16,513 incidents in calendar 2010. Of reported assaults, simple assaults comprised 12,864 incidents. Aggravated assaults totaled 3,646 or 22% of the reported domestic violence assaults for the same period. In 2010, 18 homicides were attributed to domestic violence incidents.

Additional Information

Prior Introductions: None.

Cross File: SB 647 (Senator Ramirez, *et al.*) - Judicial Proceedings.

Information Source(s): Department of Human Resources, Judiciary (Administrative Office of the Courts), Maryland Department of Aging, Department of Public Safety and Correctional Services, State’s Attorneys’ Association, Department of Legislative Services

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