

Department of Legislative Services
Maryland General Assembly
2012 Session

FISCAL AND POLICY NOTE

House Bill 1099
Judiciary

(Delegate Valentino-Smith, *et al.*)

Criminal Law - Second Degree Assault - Health Care Practitioners

This bill expands the offense of felony second degree assault to include the intentional causing of physical injury to another person if the person committing the act knows or has reason to know that the other person is a “health care practitioner” engaged in the performance of the practitioner’s official duties. A “health care practitioner” is an individual licensed, certified, or otherwise authorized under the Health Occupations Article to provide health care services.

Fiscal Summary

State Effect: Potential minimal increase in general fund revenues from fines imposed in District Court cases. The bill’s reclassification of these assaults from a misdemeanor to a felony is not expected to materially affect the caseload of the District Court. Incarceration expenditures are not affected since the maximum incarceration penalty for misdemeanor and felony second degree assault is the same.

Local Effect: Potential minimal increase in local revenues from fines imposed in circuit court cases. The bill is not expected to materially affect local finances.

Small Business Effect: None.

Analysis

Current Law: A person may not commit an assault. A violator is guilty of the misdemeanor of second degree assault and subject to maximum penalties of 10 years imprisonment and/or a fine of \$2,500. Assault means the crimes of assault, battery, and assault and battery, which are defined through case law.

A person may not intentionally cause physical injury to another if the person knows or has reason to know that the other is a law enforcement officer or parole or probation agent engaged in the performance of the officer/agent's official duties. "Physical injury" means any impairment of physical condition, excluding minor injuries. A violator is guilty of the felony of second degree assault and subject to maximum penalties of imprisonment for 10 years and/or a fine of \$5,000.

Background: According to a study published in 2010 by the U.S. Bureau of Labor Statistics, approximately 60% of all nonfatal assaults and violent acts in private industry occurred in the health care and social assistance industry. Nearly 75% of these acts were assaults by health care patients or residents of a health care facility.

State Fiscal Effect: As previously stated, the District Court has exclusive original jurisdiction over misdemeanor and felony second degree assault. Changing crimes from misdemeanors to felonies means that some persons may eventually serve longer incarcerations due to enhanced penalty provisions, applicable to some offenses for prior felony convictions. It is not known whether such a reclassification may spur more plea bargains and affect actual sentencing practices for this offense.

Though the monetary penalty for felony second degree assault is higher than the fine for misdemeanor second degree assault, the incarceration penalty for misdemeanor and felony second degree assault is the same.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Baltimore City, Howard and Montgomery counties, Cities of Frederick and Havre de Grace, Department of Health and Mental Hygiene, Judiciary (Administrative Office of the Courts), Department of State Police, Office of the Public Defender, Department of Public Safety and Correctional Services, Commission on Criminal Sentencing Policy, U.S. Bureau of Labor Statistics, Department of Legislative Services

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