

Department of Legislative Services

Maryland General Assembly

2014 Session

FISCAL AND POLICY NOTE

House Bill 1011

(Delegate Dwyer)

Health and Government Operations

Maryland Liberty Preservation Act of 2014

This bill prohibits a State or a county agency, an employee of the State or a county acting in an official capacity, or a member of the Maryland National Guard or the Maryland Defense Force acting on official State duty, from knowingly aiding a federal agency in the detention of a person in accordance with §§ 1021 and 1022 of the federal National Defense Authorization Act (NDAA) for Fiscal Year 2012. The bill does not apply to participation by State or local law enforcement, the Maryland National Guard, or the Maryland Defense Force in a joint task force, partnership, or other similar cooperative agreement with federal law enforcement if the agreement is not for the purpose of participating in a detention described in one of the specified sections of NDAA.

Fiscal Summary

State Effect: None. The bill does not materially impact State operations or finances.

Local Effect: None. The bill does not materially impact local government operations or finances.

Small Business Effect: None.

Analysis

Current Law/Background: NDAA is the annual appropriation bill for the Department of Defense (DOD). Among many other topics, NDAA for 2012 also addressed national security programs, DOD health care costs, and military modernization and gives

governors the ability to request the help of military reservists in the event of a hurricane, earthquake, flood, terrorist attack, or other disaster.

NDAA also included numerous counterterrorism provisions. Section 1021 explicitly recognizes the President's authority to detain pending disposition under the law of war those who were directly involved in the September 11 attacks or who are a part of or substantially supported al-Qaeda, the Taliban, or associated forces that are engaged in hostilities against the United States or its coalition partners. Section 1022 mandates military custody for these individuals, as specified.

Additional Information

Prior Introductions: HB 558 of 2013 received an unfavorable report from the House Health and Government Operations Committee.

Cross File: None.

Information Source(s): Office of the Attorney General; Department of Natural Resources; Judiciary (Administrative Office of the Courts); Military Department; Department of State Police; Department of Public Safety and Correctional Services; State's Attorneys' Association; Maryland Department of Transportation; Kent, Montgomery, Washington, and Worcester counties; Baltimore City; *Harvard Law Review*; Department of Legislative Services

Fiscal Note History: First Reader - March 5, 2014
mm/lgc

Analysis by: Jennifer K. Botts

Direct Inquiries to:
(410) 946-5510
(301) 970-5510