

Department of Legislative Services
Maryland General Assembly
2026 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 128

(Chair, Education, Energy, and the Environment
Committee)(By Request - Departmental - Military)

Education, Energy, and the Environment

Government, Labor, and Elections

Maryland Military Department - Supervision of State Active Duty Personnel

This emergency departmental bill establishes that during State active duty, all members of the Military Department are under the operational command and control of the Adjutant General, or any officer of the National Guard designated by the Adjutant General, whether the Adjutant General or designee is (1) in State active duty or (2) in a federal status in which the Governor is the Commander in Chief.

Fiscal Summary

State Effect: None. The bill codifies existing practice, as discussed below.

Local Effect: None.

Small Business Effect: The Military Department has determined that this bill has minimal or no impact on small business (attached). The Department of Legislative Services concurs with this assessment. (The attached assessment does not reflect amendments to the bill.)

Analysis

Current Law:

Militia – Composition and State Active Duty

The Public Safety Article lists two classes of State militia: the organized militia and the unorganized militia. The organized militia consists of the National Guard, Inactive National Guard, and the Maryland Defense Force (MDDF). Generally, the National Guard

is part of the reserve components of the U.S. Armed Forces under dual control of the State and the federal government. MDDF is an all-volunteer force designed to assist the National Guard during stateside emergencies. The Governor is the Commander-in-Chief of MDDF, and MDDF generally cannot be deployed outside the borders of Maryland.

The Governor may order the militia into State active duty (1) in times or on reasonable apprehension of imminent public crisis, disaster, rioting, catastrophe, insurrection, invasion, tumult, or breach of peace; (2) when martial law is declared; (3) to enforce the laws; or (4) to carry on any function of the militia of the State.

To enforce the laws, a member of the militia in State active duty has all the authority of a peace or law enforcement officer. The authority of the member extends throughout the State during the State active duty. Whenever the militia is in State active duty, the ranking officer of the militia ordered into State active duty or that officer's subordinates on State active duty must (1) cooperate with local law enforcement authorities or (2) if the exigencies of the case require, and subject only to order from the Governor, direct and control local law enforcement authorities and the Department of State Police and assume all the powers vested in these subordinated law enforcement authorities.

The Military Department and Adjutant General

The Military Department provides overall direction and maintenance of the Maryland National Guard, which is comprised of the Maryland Army National Guard and the Maryland Air National Guard. The Maryland National Guard may be called up by the Governor during State emergencies or may be activated by the U.S. Department of Defense.

The Adjutant General is the head of the Military Department. Among other things, the Adjutant General must be appointed by the Governor with the advice and consent of the Senate and is subordinate only to the Governor in matters relating to the Military Department. The Adjutant General must have a commissioned grade not above that of Lieutenant General and must be a full-time employee of the Military Department in State active-duty status.

Background/State Fiscal Effect: The Military Department advises that the bill is intended to codify current practice of the Adjutant General being in command of the Military Department during State active duty. However, the Military Department also advises that under current law situations could occur where the Adjutant General may be limited in their ability to direct service members on State active duty orders when they are in federal status. According to the Military Department, in emergency response situations, there may be service members in federal status assisting in operations alongside service members on State active duty, and differences between service members, their ranks, and

duty status may result in confusion regarding the chain of command. The Military Department advises the bill will allow for better operational effectiveness while personnel are in State active duty status.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced in the last three years.

Designated Cross File: HB 301 (Chair, Government, Labor, and Elections Committee)(By Request - Departmental - Military) - Government, Labor, and Elections.

Information Source(s): Governor's Office; Military Department; Department of Legislative Services

Fiscal Note History: First Reader - January 26, 2026
caw/aad Third Reader - March 16, 2026
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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Maryland Military Department - Supervision of State Active Duty Personnel

BILL NUMBER: SB 128

PREPARED BY: Dr. Tony Campbell

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

The proposed bill will have NO economic impact on Maryland Small Businesses