

Department of Legislative Services
Maryland General Assembly
2015 Session

FISCAL AND POLICY NOTE

Senate Bill 545

(Senator Lee, *et al.*)

Judicial Proceedings

Crimes - Unauthorized Computer Access for Sabotage - Water

This bill prohibits a person from engaging in activities pertaining to the unauthorized access to computer networks, computers, and related devices and software with the intent to interrupt or impair the functioning of a water service, device, or system owned, operated, or controlled by a person other than a public service company. The bill makes a violator subject to existing penalties applicable to similar crimes pertaining to computer sabotage of electricity or natural gas infrastructure. Thus, if the aggregate amount of a loss is \$50,000 or more, a violator is guilty of a felony and subject to maximum penalties of 10 years imprisonment and/or a \$25,000 fine. If the aggregate loss is less than \$50,000, a violator is guilty of a misdemeanor and is subject to maximum penalties of five years imprisonment and/or a \$25,000 fine.

Fiscal Summary

State Effect: Potential minimal increase in general fund revenues and expenditures due to the application of existing penalty provisions to the bill's criminal prohibition.

Local Effect: Potential minimal increase in local revenues and expenditures due to the application of existing penalty provisions to the bill's criminal prohibition.

Small Business Effect: None.

Analysis

Current Law: Chapter 436 of 2010 prohibits a person from gaining unauthorized access to computer services with the intent to interrupt or impair the functioning of (1) State government; (2) a service provided in the State by a public service company; or (3) a natural

gas or electric service, device, or system provided in the State by someone other than a public service company. If the aggregate amount of a loss associated with this prohibition is \$50,000 or more, a violator is guilty of a felony and subject to maximum penalties of 10 years imprisonment and/or a \$25,000 fine. If the aggregate loss is less than \$50,000, a violator is guilty of a misdemeanor and is subject to maximum penalties of five years imprisonment and/or a \$25,000 fine. According to the Judiciary (Administrative Office of the Courts) there was one violation of these prohibitions in fiscal 2014.

Background: According to the U.S. Environmental Protection Agency, many drinking water and wastewater utilities depend on computer networks and automated control systems that are vulnerable to targeted cyber attacks or accidental cyber events. In October 2014 the Industrial Control Systems Cyber Emergency Response Team within the U.S. Department of Homeland Security announced that a sophisticated Malware campaign, known as “BlackEnergy,” had been identified, which had compromised numerous industrial control systems (used to operate, among other things, water and wastewater systems) in the United States as far back as 2011.

State Revenues: General fund revenues may increase minimally as a result of the application of the existing monetary penalty provision from cases heard in the District Court.

State Expenditures: General fund expenditures may increase minimally as a result of the application of existing incarceration penalties due to more people being committed to State correctional facilities and payments to counties for reimbursement of inmate costs. The number of people convicted of this proposed crime is expected to be minimal.

Persons serving a sentence longer than 18 months are incarcerated in State correctional facilities. Currently, the average total cost per inmate, including overhead, is estimated at \$3,100 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 State inmate (including variable health care costs) is about \$770 per month. Excluding all health care, the average variable costs total \$200 per month.

Persons serving a sentence of one year or less in a jurisdiction other than Baltimore City are sentenced to local detention facilities. For persons sentenced to a term of between 12 and 18 months, the sentencing judge has the discretion to order that the sentence be served at a local facility or a State correctional facility. Prior to fiscal 2010, the State reimbursed counties for part of their incarceration costs, on a per diem basis, after a person had served 90 days. Currently, the State provides assistance to the counties for locally sentenced inmates and for inmates who are sentenced to and awaiting transfer to the State correctional system. A \$45 per diem grant is provided to each county for each day between 12 and 18 months that a sentenced inmate is confined in a local detention center. Counties

also receive an additional \$45 per day grant for inmates who have been sentenced to the custody of the State but are confined in a local facility. The State does not pay for pretrial detention time in a local correctional facility. Persons sentenced in Baltimore City are generally incarcerated in State correctional facilities. The Baltimore City Detention Center, a State-operated facility, is used primarily for pretrial detentions.

Local Revenues: Revenues may increase minimally as a result of the application of the existing monetary penalty provision from cases heard in the circuit courts.

Local Expenditures: Expenditures may increase minimally as a result of the application of the existing incarceration penalty to violations of the bill. Counties pay the full cost of incarceration for people in their facilities for the first 12 months of the sentence. A \$45 per diem State grant is provided to each county for each day between 12 and 18 months that a sentenced inmate is confined in a local detention center. Counties also receive an additional \$45 per day grant for inmates who have been sentenced to the custody of the State but are confined in a local facility. Per diem operating costs of local detention facilities have ranged from approximately \$60 to \$160 per inmate in recent years.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Harford, Montgomery, and Wicomico counties; Governor's Office of Crime Control and Prevention; Maryland Department of the Environment; Judiciary (Administrative Office of the Courts); Office of the Public Defender; State's Attorneys' Association; U.S. Environmental Protection Agency; U.S. Department of Homeland Security; Department of Legislative Services

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