

Department of Legislative Services  
 Maryland General Assembly  
 2021 Session

FISCAL AND POLICY NOTE  
 Third Reader - Revised

House Bill 106  
 Economic Matters

(Delegate Wilson)

Finance

Consumer Protection - Robocalls and Spam Calls - Website to Report and Annual Report

This bill expands the Maryland Telephone Consumer Protection Act (MTCPA) by requiring the Office of the Attorney General (OAG) to (1) maintain a website where a consumer is able to report robocalls and other spam calls and (2) establish and promote an education campaign that informs consumers on how to identify robocalls and other types of spam calls and then report such calls to OAG. OAG must notify the Federal Trade Commission (FTC) of each report it receives through the website regarding a robocall or other spam call. OAG must also report annually to the Governor and General Assembly on certain metrics relating to reports received by the website. As violation of MTCPA is an unfair, abusive, or deceptive trade practice under the Maryland Consumer Protection Act (MCPA), violation of the bill is also subject to MCPA’s civil and criminal penalty provisions.

Fiscal Summary

**State Effect:** Special fund expenditures for OAG’s Consumer Protection Division increase by *at least* \$45,800 in FY 2022 and \$57,600 in FY 2026 to implement the bill’s requirements. OAG can likely handle the reporting requirement with existing resources. Revenues are likely not materially affected.

(in dollars)	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
Revenues	\$0	\$0	\$0	\$0	\$0
SF Expenditure	45,800	52,100	53,600	55,600	57,600
Net Effect	(\$45,800)	(\$52,100)	(\$53,600)	(\$55,600)	(\$57,600)

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

**Local Effect:** The bill’s imposition of existing penalty provisions does not have a material impact on local government finances or operations.

**Small Business Effect:** Minimal.

## Analysis

**Bill Summary:** “Robocall” means a call made (including a text message sent) to any telephone number owned by a person in the State using (1) an automatic telephone dialing system or (2) an artificial or prerecorded voice.

The bill specifies that an “automatic telephone dialing system” has the same meaning as under federal law, which defines such a system as equipment which has the capacity (1) to store or produce telephone numbers to be called, using a random or sequential number generator and (2) to dial such numbers.

### *Reporting Requirement*

By November 1 each year, OAG must report to the Governor and the General Assembly on:

- the number of reports received through the website per month;
- the type of each reported call;
- the date and time of each reported call;
- the demographic information of each consumer who makes a report;
- the geographic information of each consumer who makes a report; and
- any other information OAG believes is relevant to consumer protection and robocalls and other spam calls.

### **Current Law:**

#### *Maryland Telephone Consumer Protection Act*

State law prohibits a person from violating certain federal laws and regulations (the Telemarketing and Consumer Fraud and Abuse Prevention Act and the Telephone Consumer Protection Act) – essentially the [National Do Not Call Registry](#) that was adopted under regulations issued jointly by FTC and the Federal Communications Commission. An individual who receives a call in violation of the prohibition may bring an action against the violator to recover reasonable attorney’s fees and the greater of \$500 or actual damages sustained as a result of the violation. Each prohibited telephone solicitation and each prohibited practice during a telephone solicitation is a separate violation.

#### *Maryland Consumer Protection Act*

An unfair, abusive, or deceptive trade practice under MCPA includes, among other acts, any false, falsely disparaging, or misleading oral or written statement, visual description, or other representation of any kind, which has the capacity, tendency, or effect of deceiving

or misleading consumers. The prohibition against engaging in any unfair, abusive, or deceptive trade practice encompasses the offer for or actual sale, lease, rental, loan, or bailment of any consumer goods, consumer realty, or consumer services; the extension of consumer credit; the collection of consumer debt; or the offer for or actual purchase of consumer goods or consumer realty from a consumer by a merchant whose business includes paying off consumer debt in connection with the purchase of any consumer goods or consumer realty from a consumer.

The Consumer Protection Division is responsible for enforcing MCPA and investigating the complaints of aggrieved consumers. The division may attempt to conciliate the matter, issue a cease and desist order, or file a civil action in court. A merchant who violates MCPA is subject to a fine of up to \$10,000 for each violation and up to \$25,000 for each repetition of the same violation. In addition to any civil penalties that may be imposed, any person who violates MCPA is guilty of a misdemeanor and, on conviction, is subject to a fine of up to \$1,000 and/or imprisonment for up to one year.

**State Expenditures:** Special fund expenditures increase by *at least* \$45,820 in fiscal 2022, which accounts for the bill’s October 1, 2021 effective date, in order to hire one permanent half-time employee to implement the bill’s requirements. More specifically, this estimate reflects the cost of hiring one administrator to monitor the website, compile the data, submit reports to FTC, prepare and submit the required annual report, and respond to calls and emails from consumers that are generated as a result of the website. The estimate includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Position	0.5
Salary and Fringe Benefits	\$40,484
Operating Expenses	<u>5,336</u>
<b>Minimum FY 2022 State Expenditures</b>	<b>\$45,820</b>

Future year expenditures reflect a full salary with annual increases and employee turnover and ongoing operating expenses.

While OAG did not indicate whether expenditures will further increase due to the bill’s education campaign requirements, it is assumed that any such additional costs can be absorbed with existing budgeted resources. To the extent that OAG is unable to accommodate the bill’s education campaign requirements with existing resources, special fund expenditures may increase further.

## Additional Information

**Prior Introductions:** None.

**Designated Cross File:** None.

**Information Source(s):** Office of the Attorney General (Consumer Protection Division);  
Department of Legislative Services

**Fiscal Note History:** First Reader - January 18, 2021  
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