

Department of Fiscal Services
Maryland General Assembly

FISCAL NOTE

House Bill 561 (Delegate T. Murphy, *et al.*)
Judiciary

Obscenity - Providing Minors with Access to Harmful Materials

This bill prohibits a person from recklessly selling, displaying, distributing, or exhibiting certain sexual presentations, depictions, or pictures in a way which is harmful to minors. The bill expands the types of media covered by this prohibition to include moving pictures, film, drawings, writings, comic books, computer images or discs, or other visible or audible matter or communication and exempts services or facilities that relate to recorded telephone and computer messages which are provided by a telephone company. Further, the bill establishes a minimum fine of \$500 and a maximum fine of \$1,000 for this offense. The incarceration penalty remains the same (up to one year) as under current law. Each day this violation occurs constitutes a separate offense.

The bill also establishes a minimum fine of \$500 and a maximum fine of \$1,000 and an increased incarceration penalty of one year (up from six months) for persons who exhibit, sell tickets to, or admit a minor who is unaccompanied by an adult to premises which contain motion pictures or other presentations of obscene materials.

Fiscal Summary

State Effect: Minimal increase in general fund revenues and expenditures due to the bill's penalty provisions.

Local Effect: Minimal increase in revenues and expenditures due to the bill's penalty provisions.

Small Business Effect: To the extent that small business owners must rearrange the contents of their businesses in order to comply with the bill's provisions, additional expenses would be incurred. This increase in expenses is assumed to be minimal.

Fiscal Analysis

State Revenues: General fund revenues could increase under the bill's minimum fine provisions for those cases heard in District Court, depending upon the number of convictions and fines imposed.

State Expenditures: No commitments to a Division of Correction facility involving these offenses were recorded in 1995 and 1996. Most convicted under this provision are fined. Persons serving a sentence of 12 months or less are sentenced to a local detention facility. The State reimburses counties for part of their per diem rate after a person has served 90 days. State per diem reimbursements for fiscal 1998 are estimated to range from \$12 to \$42 per inmate depending upon the jurisdiction. Persons sentenced in Baltimore City are incarcerated in the Baltimore City Detention Center (BCDC), a State operated facility. The per diem cost for fiscal 1998 is estimated at \$43 per inmate.

Local Revenues: Revenues could increase under the bill's monetary penalty provisions for those cases heard in the circuit courts, depending upon the number of convictions and fines imposed.

Local Expenditures: Expenditures could increase as a result of the bill's incarceration penalties depending upon the number of convictions and sentences imposed. Counties pay the full cost of incarceration for the first 90 days of the sentence, plus part of the per diem cost after 90 days. Per diem operating costs of local detention facilities are expected to range from \$23 to \$83 per inmate in fiscal 1998.

Information Source(s): Department of Public Safety and Correctional Services (Division of Correction), Department of Fiscal Services

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