

Department of Legislative Services
Maryland General Assembly

FISCAL NOTE

House Bill 1180 (Delegate Harkins. *et al.*)

Judiciary

Crimes - Computer Piracy

This bill revises provisions of law concerning computer-related crimes and increases the penalties imposed on violators. The bill provides that it is lawful for a law enforcement officer acting in a criminal investigation to intercept a wire, oral, or electronic communication in order to provide evidence of the commission of the offenses related to computer piracy.

Fiscal Summary

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

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

Small Business Effect: Indeterminate. To the extent that this bill discourages unauthorized access to devices or systems and/or alleviate access code difficulties, small businesses could benefit. Such a potential benefit cannot be reliably quantified.

Fiscal Analysis

Background: Under current law a person who intentionally and without authorization accesses or attempts to access a computer system is guilty of a misdemeanor and subject to a fine not to exceed \$1,000 or imprisonment not to exceed three years or both. A person who intentionally and without authorization accesses or attempts to access a computer system in order to cause the computer to malfunction, interrupt the operation of the computer, alter, damage, or destroy data, identify any valid access codes, or distribute any valid access codes to unauthorized persons is guilty of a misdemeanor and subject to a fine not exceeding

\$5,000 or imprisonment not exceeding five years or both.

Bill Summary: The bill prohibits a person from: (1) intentionally accessing specified computer systems to devise or execute a scheme with the intent to defraud or obtain money, property, or a service by a false or fraudulent pretense; (2) intentionally and without authorization accessing specified computer systems to acquire, alter, damage, delete, or destroy property; or (3) inserting or attaching a set of instructions or a computer program into a computer system to acquire, alter, damage, delete, or destroy property, or use the computer services. Where the loss is less than \$300, a violator is guilty of a misdemeanor and subject to a fine not to exceed \$500 and/or imprisonment for not more than 18 months. Where the loss is greater than \$300, a violator is guilty of a misdemeanor and subject to a fine not to exceed \$1,000 and/or imprisonment for not more than 15 years.

A person who uses a computer system to commit a crime is guilty of a felony and is subject to a fine not to exceed \$1,000 or imprisonment for not more than five years or both.

It is a rebuttable presumption that a person did not have authorization from the owner to access the computer system unless: (1) written or oral permission was granted by the owner; (2) the accessed computer system had a pre-programmed access procedure that would display a warning message before access was achieved that a reasonable person would believe identified the computer system as within the public domain; or (3) access was achieved without the use of a set of instructions, code, or computer program that circumvents the pre-programmed access procedure for the computer system.

State Revenues: The Department of Legislative Services has not been provided with the number of computer-related crime convictions under current law. It is expected that the current level of convictions will increase. General fund revenues could increase under the bill's monetary penalty provisions for those cases heard in the District Court, depending upon the number of convictions and fines imposed.

State Expenditures: General fund expenditures could increase as a result of the bill's incarceration penalties due to more people being committed to a Division of Correction (DOC) facility and increased payments to counties for reimbursement of inmate costs, depending upon the number of convictions and sentences imposed.

Persons serving a sentence longer than one year are incarcerated in a DOC facility. In fiscal 1999 the average monthly cost per inmate is estimated at \$1,500.

Persons serving a sentence of one year 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 1999 are estimated to range from \$12 to \$42 per inmate depending upon the jurisdiction. Persons sentenced to such a term in Baltimore City are generally incarcerated in a DOC facility, with an average monthly cost estimated at \$1,500 for fiscal 1999. [The Baltimore City Detention Center (BCDC), a State operated facility, is used primarily for pretrial detentions. The per diem cost for BCDC in fiscal 1999 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 people in their facilities 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 \$84 per inmate in fiscal 1999.

Information Source: Department of Public Safety and Correctional Services (Division of Correction); Department of Legislative Services

Fiscal Note History: First Reader - March 13, 1998

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