

Department of Legislative Services
Maryland General Assembly

FISCAL NOTE
Revised

House Bill 1178 (Delegate Harkins. *et al.*)

Judiciary

Crimes - Telecommunications Act

This bill expands the scope of the law concerning telecommunications crimes and provides for penalties. This bill does not apply to a law enforcement officer or other authorized person who possesses an access device in the course of an official police investigation.

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: Potential minimal impact.

Fiscal Analysis

Bill Summary: Obtaining a telecommunications service to avoid a service charge: The bill prohibits a person from knowingly obtaining or attempting to obtain a telecommunications service with the intent to avoid a lawful fee for that service by use of a telecommunications access device without the authority of the owner. Violators are guilty of a misdemeanor and subject to a fine of not more than \$2,500 and/or imprisonment for not more than three years.

Possessing and distributing a counterfeit communication device: A person who knowingly possesses or uses a counterfeit telecommunications device is guilty of a misdemeanor and subject to a fine of not more than \$2,500 and/or imprisonment for not more than three years. A person who knowingly possesses with the intent to distribute, manufacture, or sell a counterfeit communication device is guilty of a felony and subject to a fine of not more than

\$10,000 and/or imprisonment for not more than five years.

- *Current law:* A person may not knowingly make, sell, offer, advertise, or possess a device to obtain telephone or telegraph service with the intent to avoid a lawful charge for that service. Violators are guilty of a misdemeanor and subject to a fine of not more than \$500 and/or imprisonment of not more than one year.

Electronic serial numbers and mobile identification numbers: A person may not knowingly possess a combination of electronic serial numbers and mobile identification numbers that will facilitate telecommunications service without the consent of the lawful owner. Violators are guilty of a misdemeanor and subject to a fine of not more than \$2,500 and/or imprisonment for not more than three years.

- *Current Law:* A person may not knowingly possess or use a cloned wireless telephone or a reader. Violators are guilty of a misdemeanor and subject to a fine not more than \$2,500 and/or imprisonment for not more than three years.

A person may not knowingly possess electronic serial numbers and mobile identification numbers in sufficient quantities that would indicate an intent to distribute, manufacture, or sell an electronic serial number and mobile identification number combination. Violators are guilty of a felony and subject to a fine of not more than \$10,000 and/or imprisonment of not more than five years.

- *Current Law:* A person may not knowingly possess with the intent to distribute, distribute, manufacture, or sell a cloned wireless telephone or reader. Violators are guilty of a felony and subject to a fine of not more than \$10,000 and/or imprisonment of not more than five years.

State Revenues: In 1997, the Division of Correction (DOC) received eight persons convicted of telephone misuse. As the bill expands the scope of the law governing telecommunications crimes, the number of convictions could increase. Further, the bill increases the penalties imposed on violators.

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 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 Sources: Judiciary, Maryland State Attorneys' Association, Department of Public Safety and Correctional Services (Division of Correction)

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