

Department of Legislative Services
Maryland General Assembly
2000 Session

FISCAL NOTE
Revised

House Bill 278 (The Speaker. *et al.*)
(Administration)

Judiciary

Crimes - Computer Piracy

This Administration bill revises provisions concerning computer-related crimes. Specifically, the bill redefines the term “access” and defines “aggregate amount” as any direct loss of property or services incurred. In addition, the bill specifies that certain existing prohibitions against computer piracy (generally connected with causing malfunctions, damage, or the possession and distribution of access codes), where the aggregate amount of the loss is \$10,000 or greater, are felonies and violators are subject to maximum penalties of a fine of \$10,000 and/or imprisonment for ten years.

Fiscal Summary

State Effect: Potential minimal decrease in general fund revenues and increase and decrease in expenditures due to the bill’s penalty provisions.

Local Effect: Potential minimal increase in revenues and decrease in expenditures due to the bill’s penalty provisions. Expenditures should not be affected.

Small Business Effect: A small business impact statement was not provided by the Administration in time for inclusion in this fiscal note. A revised note will be issued when the Administration’s assessment becomes available.

Analysis

Current Law: Violators of certain provisions relating to unlawful access to computers are guilty of a misdemeanor and subject to maximum penalties of \$1,000 and/or imprisonment for three years. More serious unauthorized access prohibitions (generally relating to causing malfunctions, damage, or the possession and distribution of access codes) is also a misdemeanor, but violators are subject to maximum penalties of a fine of \$5,000 and/or imprisonment for five years. Neither offense is predicated upon an amount or value of a loss.

Background: The bill's provisions come directly from recommendations made by the Maryland Information Technology Board (ITB) in their November 1999 report, *Internet Policy Recommendations*. The ITB found that recent enhancements in computer hardware and software have resulted in an increase in computer-related crime. As a result, computer intrusion cases have increased.

State Revenues: General fund revenues could decrease minimally if more cases of unauthorized access to computers are charged as felonies and result in jury trials.

State Expenditures: General fund expenditures could increase minimally as a result of the bill's felony incarceration penalty due to people being committed to Division of Correction (DOC) facilities for longer periods of time. However, a greater number of felony convictions with imprisonment terms greater than one year would also result in decreased payments to counties for reimbursement of inmate costs. The State reimburses counties for part of their incarceration costs, on a per diem basis, after a person has served 90 days. State per diem reimbursements for fiscal 2001 are estimated to range from \$11 to \$54 per inmate depending upon the jurisdiction. Persons sentenced to such a term in Baltimore City are generally incarcerated in DOC facilities. The number of people convicted of this proposed crime is expected to be minimal.

Persons serving a sentence longer than one year are incarcerated in DOC facilities. Currently, the average total cost per inmate, including overhead, is estimated at \$1,700 per month. This bill alone, however, should not create the need for additional beds, personnel, or facilities. The average variable cost of housing a new DOC inmate (food, medical care, etc.), excluding overhead, is \$260 per month.

Local Revenues: Revenues could increase minimally as a result of the bill's monetary penalty provision from cases heard in the circuit courts.

Local Expenditures: Assuming that the number of computer crimes remains constant, to

the extent that this bill would result in more imprisonment terms greater than one year, expenditures could decrease minimally. 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 \$22 to \$83 per inmate in fiscal 2001.

Additional Information

Prior Introductions: None.

Cross File: SB 200 (The President, *et al.*) - Judicial Proceedings.

Information Source(s): Department of Public Safety and Correctional Services (Division of Correction), Maryland Information Technology Board, Department of Legislative Services

Fiscal Note History: First Reader - February 13, 2000
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