

Department of Legislative Services
Maryland General Assembly
2002 Session

FISCAL NOTE

House Bill 798
Judiciary

(Delegate Snodgrass)

Criminal Law - Harassment - Internet Use

This bill prohibits a person from posting, or causing to be posted, an individual's personal identifying information on the internet with the intent to harass the individual or to cause another person to harass the individual. A violator is guilty of a misdemeanor and subject to maximum penalties of a fine of \$2,500 and/or imprisonment for three years. The bill provides that each day the information appears on the internet is a separate violation.

Fiscal Summary

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

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

Small Business Effect: None.

Analysis

Bill Summary: If an owner or operator of an internet web hosting service, without knowledge of the supplier's intent, receives personal identifying information from someone other than the individual to whom it applies, the owner or operator may not be held liable for a violation of this prohibition.

An owner or operator who receives a written request to remove personal identifying information posted on the internet in violation of this provision from the person to whom

personal identifying information applies must remove the personal identifying information within three days of receiving the request.

These provisions do not apply to posting of personal identifying information: (1) which is specifically authorized by a federal or State statute; (2) regarding elected officials or governmental appointees to the extent the personal identifying information is otherwise publicly available and reasonably related to the individual's public stature; and (3) which is reasonably related to the expression of political views.

Personal identifying information is defined as a name, address, telephone number, electronic mail address, driver's license number, Social Security number, place of employment, profession, occupation, employee identification number, mother's maiden name, bank or other financial institution account number, date of birth, personal identification number, or credit card number.

Current Law: Under the prohibition against harassment in the State's criminal code, a person may not follow another in or about a public place or maliciously engage in a course of conduct that alarms or seriously annoys the other: (1) with the intent to harass, alarm, or annoy the other; (2) after receiving a reasonable warning or request to stop by or on behalf of the other; and (3) without a legal purpose. A violator is guilty of a misdemeanor and subject to maximum penalties of a fine of \$500 and/or imprisonment for 90 days. This prohibition does not apply to a peaceable activity intended to express a political view or provide information to others.

Under the prohibition against misuse of telephone facilities and equipment, a person may not use telephone facilities or equipment to make: (1) an anonymous call that is reasonably expected to annoy, abuse, torment, harass, or embarrass another; (2) repeated calls with the intent to annoy, abuse, torment, harass, or embarrass another; or (3) a comment, request, suggestion, or proposal that is obscene, lewd, lascivious, filthy, or indecent. A violator is guilty of a misdemeanor and subject to maximum penalties of a fine of \$500 and/or imprisonment for three years.

Under the prohibition against misuse of electronic mail, a person may not use electronic mail with the intent to harass: (1) one or more persons; or (2) by sending lewd, lascivious, or obscene material. A violator is guilty of a misdemeanor and subject to maximum penalties of a fine of \$500 and/or imprisonment for one year. It is not a violation of this section for certain persons to provide information, facilities, or technical assistance to another who is authorized by federal or state law to intercept or provide electronic mail or to conduct surveillance of electronic mail, if a court order directs the person to provide the information, facilities, or technical assistance. This prohibition also

does not apply to a peaceable activity intended to express a political view or provide information to others.

Background: This bill is in response to complaints that the State's e-mail harassment provisions and telephone misuse prohibitions do not cover instances where a person's name and personal identifying information are posted to the internet by another party for ultimate harassment purposes.

State Revenues: General fund revenues could increase minimally as a result of the bill's monetary penalty provision from cases heard in the District Court.

State Expenditures: General fund expenditures could increase minimally as a result of the bill's incarceration penalty due to more people being committed to Division of Correction (DOC) facilities and increased payments to counties for reimbursement of inmate costs. The number of people convicted of this proposed crime is expected to be minimal.

Generally, 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 \$1,850 per month. This bill alone, however, should not create the need for additional beds, personnel, or facilities. Excluding overhead, the average cost of housing a new DOC inmate (including medical care and variable costs) is \$300 per month.

Persons serving a sentence of one year or less in a jurisdiction other than Baltimore City are sentenced to local detention facilities. 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 2003 are estimated to range from \$10 to \$61 per inmate depending upon the jurisdiction. Persons sentenced to such a term in Baltimore City are generally incarcerated in DOC facilities. The Baltimore City Detention Center, a State-operated facility, is used primarily for pretrial detentions.

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: Expenditures could increase minimally as a result of the bill's incarceration penalty. 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 \$20 to \$84 per inmate in fiscal 2003.

Additional Information

Prior Introductions: None.

Cross File: None.

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

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