

Department of Legislative Services
Maryland General Assembly
2004 Session

FISCAL AND POLICY NOTE

House Bill 1090

(Delegate Niemann, *et al.*)

Judiciary

Criminal Law - Cable Television - Presumption

This bill provides that the owner or lessee of a residential property where interference with cable television service occurs is presumed to know of the violation, if written notice has been sent by certified or registered mail at least 30 days prior to the filing of charges. The presumption does not attach to an owner of residential property who does not reside at the property.

Fiscal Summary

State Effect: Minimal increase in general fund revenue and expenditures.

Local Effect: Minimal increase in expenditures if the bill results in more incarcerations in local facilities. Revenues would not be affected.

Small Business Effect: None.

Analysis

Current Law: Current law prohibits theft of cable television service and related acts of interference with the equipment of a franchised cable television company or private cable television company with the intent to receive their services without payment. The offense is a misdemeanor, which is heard in District Court. First-time violators are subject to maximum penalties of a fine of \$1,000 and/or imprisonment for six months. A subsequent violation subjects the person to maximum penalties of a fine of \$2,500 and/or imprisonment for one year. If performed for payment or promise of payment, a violation is subject to maximum penalties of a fine of \$5,000 and/or imprisonment for five years.

Civil damages and injunctive relief are available to the cable television company in addition to the assessment of fines. Material and equipment used in the violation may be seized and forfeited to the State.

Background: Based on a 1999 cable piracy survey, the National Cable and Telecommunications Association (NCTA) estimates that the industry loses an estimated \$6.6 billion in unrealized basic and premium revenue annually. This figure does not include pirated pay-for-view programming, which NCTA believes increases this figure to over \$10 billion annually.

State Revenues: State revenues could increase minimally if the presumption results in additional fines levied by the District Court.

State Expenditures: General fund expenditures could increase minimally due to more people being committed to Division of Correction (DOC) facilities and increased payments to counties for reimbursement of inmate costs.

Persons serving a sentence longer than 18 months 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 \$350 per month. Excluding medical care, the average variable costs total \$120 per month.

Persons serving a sentence of one year or less in a jurisdiction other than Baltimore City are sentenced to local detention facilities. For persons sentenced to a term of between 12 and 18 months, the sentencing judge has the discretion to order that the sentence be served at a local facility or DOC. 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 2005 are estimated to range from \$14 to \$58 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 Expenditures: Expenditures could increase minimally if additional persons are sentenced to local detention facilities. 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 \$29 to \$97 per inmate in fiscal 2005.

Additional Information

Prior Introductions: None.

Cross File: None.

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

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lc/jr

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