

Department of Legislative Services
Maryland General Assembly
2004 Session

FISCAL AND POLICY NOTE
Revised

House Bill 307

(Delegate Sophocleus, *et al.*)

Judiciary

Judicial Proceedings

**Criminal Law - Motion Picture Theaters - Prohibition against Audiovisual
Recording**

This bill prohibits a person from knowingly operating an audiovisual recording function of a device in a motion picture theater, except in the lobby area, without the consent of the owner or lessee of the theater. The bill provides immunity from civil liability to an owner, lessee, agent, or employee of a motion picture theater who detains or causes the arrest of any person if there is probable cause to believe that the person committed a violation of the prohibition against audiovisual recording in the theater.

For a first violation, an offender is guilty of a misdemeanor and subject to maximum penalties of imprisonment for one year and/or a fine of \$2,500 for each individual act in violation of the prohibition. For a subsequent violation, an offender is guilty of a misdemeanor and subject to maximum penalties of imprisonment for three years and/or a fine of \$10,000 for each individual act in violation of the prohibition.

The provisions of this bill are severable.

Fiscal Summary

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

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

Small Business Effect: None.

Analysis

Current Law: Generally, a person may not knowingly transfer or cause to be transferred any recorded sounds or images to any other recorded article with the intent to sell or cause to be sold for profit or used to promote the sale of any product, without the consent of the owner or performer. A person may not knowingly deliver, offer for delivery, or possess for the purpose of delivery a recorded article on which sounds or images have been transferred or stored, unless the recorded article bears in a prominent place on its outside face or package: (1) the name and street address of the transferor; and (2) the name of the performer or group.

For a first violation, an offender is guilty of a misdemeanor and subject to maximum penalties of imprisonment for one year and/or a fine of \$2,500 for each individual act in violation of the prohibition. For a subsequent violation, an offender is guilty of a misdemeanor and subject to maximum penalties of imprisonment for three years and/or a fine of \$10,000 for each individual act in violation of the prohibition.

Background: Piracy of motion pictures, especially by means of using camcorders in movie theatres, continues as a problem nationwide. Camcorder piracy is considered a major threat to U.S. film distributors both at home and abroad.

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

State Expenditures: General fund expenditures could increase minimally as a result of the bill's incarceration penalties 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.

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

Local Expenditures: Expenditures could increase minimally as a result of the bill's incarceration penalties. 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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