

**Department of Legislative Services**  
Maryland General Assembly  
2004 Session

**FISCAL AND POLICY NOTE**  
**Revised**

Senate Bill 837

(Senators Middleton and Klausmeier)

Judicial Proceedings

Judiciary

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**Crimes - Counterfeiting and Possession of Counterfeit Check, Letter of Credit,  
or Negotiable Instrument**

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This bill creates a new misdemeanor, and expands a current law felony, relating to counterfeiting checks and other private instruments and documents.

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**Fiscal Summary**

**State Effect:** Potential minimal increase in general fund revenues and expenditures due to the bill's misdemeanor penalty provision and expansion of an existing felony.

**Local Effect:** Potential minimal increase in revenues and expenditures due to the bill's misdemeanor penalty provision and expansion of an existing felony.

**Small Business Effect:** Minimal.

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**Analysis**

**Bill Summary:** Under the State's prohibition against counterfeiting private instruments and documents (a felony), this bill adds a check, a letter of credit, a negotiable instrument, and the endorsement or assignment of a check to the list of items a person, with an intent to defraud, may not counterfeit, cause to be counterfeited, or willingly aid or assist in counterfeiting. The bill also prohibits a person from knowingly, willfully, and with fraudulent intent possessing a counterfeit of any of the enumerated items in the counterfeiting prohibition. A violator is guilty of a misdemeanor and subject to maximum penalties of imprisonment for three years and/or a fine of \$1,000.

A related prosecution may be commenced in any county in which an element of the crime occurred, the victim resided, or the victim conducts business (if the victim is not an individual).

**Current Law:** Under the State's prohibition against counterfeiting private instruments and documents, a person, with intent to defraud another, may not counterfeit, cause to be counterfeited, or willingly aid or assist in counterfeiting any: (1) bond; (2) deed; (3) draft; (4) endorsement or assignment of a bond, draft, or promissory note; (5) entry in an account book or ledger; (6) power of attorney; (7) promissory note; (8) release or discharge for money or property; (9) title to a motor vehicle; (10) waiver or release of mechanics' lien; or (11) will or codicil. A violator is guilty of a felony and subject to maximum penalties of imprisonment for 10 years and/or a fine of \$1,000.

The Attorney General does not have general authority to prosecute crimes in the absence of specific statutory authority or an executive order. Prosecutorial issuing authority has been granted by statute in certain instances, including enforcement and regulation under the Maryland Securities Act and the Maryland Consumer Protection Act.

**Background:** This bill results from the efforts of an interim workgroup of legislators, State's Attorneys, representatives of the Attorney General, bankers, retailers, police officials, check cashers, and others.

**State Expenditures:** According to OAG, Maryland banks and merchants suffer millions of dollars of loss each year from counterfeit checks. Cases involving counterfeit financial instruments often are multijurisdictional in nature.

Accordingly, general fund expenditures could increase minimally as a result of the bill's new misdemeanor incarceration penalty, and expansion of the crime of counterfeiting private instruments and documents, 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 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 \$29 to \$97 per inmate in fiscal 2005.

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### Additional Information

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Office of the Attorney General, Department of Public Safety and Correctional Services, Department of Legislative Services

**Fiscal Note History:** First Reader - March 21, 2004  
ncs/jr Revised - Enrolled Bill - April 22, 2004

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