

Department of Legislative Services
Maryland General Assembly
2006 Session

FISCAL AND POLICY NOTE

Senate Bill 116 (Chairman, Judicial Proceedings Committee)
(By Request – Departmental – Public Safety and Correctional Services)
Judicial Proceedings

Criminal Law - Telecommunication Device in Place of Confinement - Prohibition

This departmental bill provides that (1) a person may not deliver a “telecommunication device” to a person detained or confined in a place of confinement; (2) a person may not possess such a device with the intent to deliver it to a detained or confined person; (3) a person may not deposit or conceal such a device in or about a place of confinement or on any land appurtenant to such a place with the intent that the device be obtained by a detained or confined person; and (4) a detained or confined person may not receive a telecommunication device. A violator is guilty of a felony and subject to maximum penalties of imprisonment for 10 years and/or a fine of \$5,000.

Fiscal Summary

State Effect: Minimal increase in general fund revenues and expenditures due to the bill’s penalty provisions. The bill’s enforcement requirements would be handled with the existing budgeted resources of the Division of Correction (DOC).

Local Effect: Minimal increase in revenues and expenditures due to the bill’s penalty provisions. It is assumed that the bill’s enforcement requirements for local correctional facilities would be handled with the existing budgeted resources.

Small Business Effect: The Department of Public Safety and Correctional Services (DPSCS) has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment.

Analysis

Current Law: Under provisions governing contraband in prisons or jails, “contraband” means any item, material, substance, or other thing of value that (1) is not authorized for inmate possession by the managing official; or (2) is brought into the correctional facility in a manner prohibited by the managing official. Chapter 41 of 2002 clarified that any item, material, substance, or other thing need not have any particular value to be considered contraband in a correctional facility.

“Place of confinement” means: (1) a correctional facility; (2) a facility of the Department of Health and Mental Hygiene; (3) a detention center for juveniles; (4) a juvenile facility, as specified; (5) a place identified in a juvenile community detention order; or (6) any other facility in which a person is confined under color of law. It does not include a place identified in a home detention order or agreement.

Background: Internal phone systems in prisons and jails serve as a means for inmates to communicate with persons outside the facility and also allow for the secure monitoring of information in such communications that may breach the security of the facility. The use of the devices described in this bill, especially cellular telephones, can be used to facilitate escapes and other criminal activity.

According to DPSCS, the problem of the introduction of such devices into prisons and jails has occurred in several states and legislation similar to this bill has been passed in Texas, Pennsylvania, and Iowa.

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 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 \$1,974 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 \$341 per month. Excluding medical care, the average variable costs total \$134 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 2007 are estimated to range from \$17 to \$65 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 \$33 to \$119 per inmate in fiscal 2007.

Additional Information

Prior Introductions: In 2005, SB 83 contained some similar provisions to this bill. That bill passed the Senate with amendments, passed the House with amendments, and had no further action taken on it.

Cross File: None.

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

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ncs/jr

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