

Department of Legislative Services
Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE

House Bill 1377

(Delegate Myers, *et al.*)

Judiciary

Criminal Law - Unauthorized Access to Wireless Internet Service

This bill prohibits a person from intentionally, willfully, and without authorization accessing, attempting to access, causing to be accessed, or exceeding the person's authorized access to wireless Internet service with knowledge that the access is unauthorized and legally prohibited.

A violator is guilty of the current law misdemeanor of *unauthorized access to computers and related materials* and subject to the same maximum penalties (cited below).

Fiscal Summary

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

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

Small Business Effect: None.

Analysis

Current Law: A person may not intentionally, willfully, and without authorization access, attempt to access, cause to be accessed, or exceed the person's authorized access to all or part of a computer network, computer control language, computer, computer software, computer system, computer services, or computer database.

A person may not commit such a prohibited act with the intent to: (1) cause the malfunction or interrupt the operation of all or any part of a computer, computer network, computer control language, computer software, computer system, computer services, or computer data; or (2) alter, damage, or destroy all or any part of data or a computer program stored, maintained, or produced by a computer, computer network, computer software, computer system, computer services, or computer database.

A person may not intentionally, willfully, and without authorization: (1) possess, identify, or attempt to identify a valid access code; or (2) publicize or distribute a valid access code to an unauthorized person.

A violator is guilty of the misdemeanor of *unauthorized access to computers and related materials* and subject to maximum penalties of imprisonment for three years and/or a fine of \$1,000. For certain identified violations under the prohibition with a specified intent, if the aggregate amount of loss of the victim is \$10,000 or more, the violator is guilty of a felony and subject to maximum penalties of imprisonment for 10 years and/or a fine of \$10,000. If the loss is less than that amount, the violator is guilty of a misdemeanor and subject to maximum penalties of imprisonment for five years and/or a fine of \$5,000.

Access achieved in such a violation under a single scheme or a continuing course of conduct may be considered as one violation. A court of competent jurisdiction may try a prosecution for the violation in any county where the defendant performed the act or where the accessed computer is located.

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 these proposed crimes 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 \$2,600 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 \$526 per month. Excluding medical care, the average variable costs total \$148 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 2009 are estimated to range from \$19 to \$71 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 \$40 to \$129 per inmate in fiscal 2009.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts), Department of Public Safety and Correctional Services, Department of Legislative Services

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