

Department of Legislative Services  
Maryland General Assembly  
2009 Session

FISCAL AND POLICY NOTE

House Bill 874  
Judiciary

(Delegate Sophocleus, *et al.*)

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**Criminal Law - Trespass on Posted Property and Wanton Trespass on Private Property - Penalties**

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This bill increases the maximum misdemeanor penalties applicable to the crimes of trespass on posted property and wanton trespass on private property. For each offense, which has a current law maximum penalty of 90 days imprisonment and/or a \$500 fine, the bill retains the current law penalty as applicable to a first offense; subjects a second offense violator to maximum penalties of six months imprisonment and/or a \$1,000 fine; and subjects a subsequent violator to maximum penalties of one year imprisonment and/or a \$2,500 fine.

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**Fiscal Summary**

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

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

**Small Business Effect:** None.

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**Analysis**

**Current Law:** Under the State's prohibition against trespass on posted property, a person may not enter or trespass on property that is posted conspicuously against trespass by signs placed where they reasonably may be seen or paint marks that:

- conform with applicable regulations adopted by the Department of Natural Resources; and
- are made on trees or posts that are located at each road entrance to the property and adjacent to public roadways, public waterways, and other land adjoining the property.

Under the prohibition against wanton trespass on private property, a person may not:

- enter or cross over private property or board the boat or other marine vessel of another, after having been notified by the owner or the owner's agent not to do so, unless entering or crossing under a good faith claim of right or ownership; or
- remain on private property including the boat or other marine vessel of another, after having been notified by the owner or the owner's agent not to do so.

This prohibition also applies to property that is used as a housing project and operated by a housing authority or State public body, if an authorized agent of the housing authority or State public body gives the required notice.

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

**State Expenditures:** General fund expenditures increase minimally as a result of the bill's increased incarceration penalties due to increased payments to counties for reimbursement of inmate costs and more people being committed to Division of Correction (DOC) facilities.

Generally, persons serving a sentence of one year or less in a jurisdiction other than Baltimore City are sentenced to a local detention facility. 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 2010 are estimated to range from \$23 to \$71 per inmate depending upon the jurisdiction. Persons sentenced to such a term in Baltimore City are generally incarcerated in a DOC facility. Currently, the DOC 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 variable medical care and variable operating costs) is \$342 per month. Excluding all medical care, the average variable costs total \$164 per month.

**Local Revenues:** Revenues may increase minimally as a result of the bill's increased monetary penalty provisions from cases heard in the circuit courts. Although these cases will likely be heard in the District Court, any jury trials are shifted to the circuit courts.

**Local Expenditures:** Expenditures may increase minimally as a result of the bill's increased 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 \$46 to \$141 per inmate in fiscal 2010.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Kent County, Montgomery County, Washington County, Worcester County, Baltimore City, Department of Natural Resources, Judiciary (Administrative Office of the Courts), Department of Public Safety and Correctional Services, Department of Legislative Services

**Fiscal Note History:** First Reader - March 12, 2009  
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Analysis by: Guy G. Cherry

Direct Inquiries to:  
(410) 946-5510  
(301) 970-5510