

Department of Legislative Services
Maryland General Assembly
2010 Session

FISCAL AND POLICY NOTE

House Bill 61
Judiciary

(Delegate V Turner)

Correctional Services - Provision, Possession, and Use of Wireless Communication
Devices in Correctional Facilities - Penalties

This bill prohibits an inmate from using or possessing a “wireless communication device” unless authorized to do so by the correctional facility’s managing official. A violator is guilty of a misdemeanor and subject to a mandatory sentence of at least one year and a maximum fine of \$5,000. The mandatory minimum one-year portion of the sentence is nonsuspendable and nonparolable. The bill also prohibits a person from providing or attempting to provide an inmate with a wireless communication device unless authorized to do so by the managing official. A violator is guilty of a misdemeanor and subject to a maximum fine of \$10,000. An employee of a State correctional facility who violates this prohibition is subject to removal.

The bill takes effect July 1, 2010.

Fiscal Summary

State Effect: Minimal increase in general fund revenues and expenditures due to the bill’s penalty provisions. The additional cause for dismissal of a State correctional facility employee provided under the bill is not expected to affect State finances.

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

Small Business Effect: None.

Analysis

Current Law: Under Chapter 535 of 2007: (1) a person may not deliver a “telecommunication device” to a person detained or confined in a place of confinement with signs posted indicating that such conduct is prohibited; (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 knowingly possess or receive a telecommunication device. 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 “telecommunication device” means: (1) a device that is able to transmit telephonic, electronic, digital, cellular, or radio communications; or (2) a part of a device that is able to transmit telephonic, electronic, digital, cellular, or radio communications, regardless of whether the part itself is able to transmit. It includes a cellular telephone, digital telephone, picture telephone, and a modem equipped device.

Under the applicable section of the Transportation Article, a wireless communication device means: (1) a handheld or hands-free device used to access a wireless telephone service; or (2) a text messaging device.

Background: Each managing official can define what constitutes contraband in each individual institution. In some institutions, tobacco is considered contraband and in other institutions having additional soap above an inmate’s allotment, additional shirts above allotment, or a homemade tattooing device could be considered contraband. There is no universal definition of contraband for a place of confinement within the State.

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

State Expenditures: General fund expenditures increase minimally as a result of the bill’s incarceration penalty due to more people being committed to Division of Correction (DOC) facilities. 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 \$2,750 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

\$371 per month. Excluding all medical care, the average variable costs total \$182 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. Prior to fiscal 2010, the State reimbursed counties for part of their incarceration costs, on a per diem basis, after a person has served 90 days. Currently, the State provides assistance to the counties for locally sentenced inmates and for inmates who are sentenced to and awaiting transfer to the State correctional system. A \$45 per diem grant is provided to each county for each day between 12 and 18 months that a sentenced inmate is confined in a local detention center. Counties also receive an additional \$45 per day grant for inmates who have been sentenced to the custody of the Division of Correction but are confined in a local facility. The State does not pay for pretrial detention time in a local correctional facility. Persons sentenced 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 increase minimally as a result of the bill's monetary penalty provisions from cases heard in the circuit courts.

Local Expenditures: Expenditures 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 12 months of the sentence. A \$45 per diem State grant is provided to each county for each day between 12 and 18 months that a sentenced inmate is confined in a local detention center. Counties also receive an additional \$45 per day grant for inmates who have been sentenced to the custody of the Division of Correction but are confined in a local facility. Per diem operating costs of local detention facilities are expected to range from \$57 to \$157 per inmate in fiscal 2011.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Judiciary (District Court of Maryland), Department of Public Safety and Correctional Services, Department of Legislative Services

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mlm/hlb

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