

Department of Legislative Services  
Maryland General Assembly  
2010 Session

FISCAL AND POLICY NOTE

Senate Bill 186 (Senator Kelley, *et al.*)  
Judicial Proceedings

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Criminal Law - Electronic Harassment of a Minor

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This bill prohibits a person from making an electronic communication with the intent to terrify, intimidate, or harass a minor, or threaten to inflict injury or physical harm to a minor or property of the minor. A violator is guilty of a misdemeanor and subject to maximum penalties of three years imprisonment and/or a \$5,000 fine.

The prohibition does not apply to a peaceable activity intended to express a political view or provide information to others and may not be construed to have an effect on the lawfulness of specified policies of electronic mail service providers that relate to the handling of electronic communications.

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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:** A person may not use electronic mail with the intent to harass one or more persons, or by sending lewd, lascivious, or obscene material. A violator is subject to maximum misdemeanor penalties of imprisonment for one year and/or a fine of \$500.

The prohibition does not apply to a peaceable activity intended to express a political view or provide information to others. (*See* Criminal Law Article § 3-805.)

Chapter 470 of 2004 established the Maryland Spam Deterrence Act, which prohibits a person from sending multiple commercial electronic mail (e-mail) messages under specified circumstances from a protected computer. Violators are subject to criminal and civil liability. Under the Act, the term “electronic mail service provider” means any person, including an Internet service provider, that is an intermediary in sending and receiving electronic mail and that provides to the public the ability to send or receive electronic mail to or from an electronic mail account or online user account.

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

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 for longer periods of time 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 \$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 \$409 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 provision 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.

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### **Additional Information**

**Prior Introductions:** SB 194 of 2009 received an unfavorable report from the Senate Judicial Proceedings Committee.

**Cross File:** None.

**Information Source(s):** Office of the Attorney General (Consumer Protection Division), Commission on Criminal Sentencing Policy, Judiciary (Administrative Office of the Courts), Department of State Police, Department of Public Safety and Correctional Services, Department of Legislative Services

**Fiscal Note History:** First Reader - February 5, 2010  
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