

Department of Legislative Services
Maryland General Assembly
2010 Session

FISCAL AND POLICY NOTE
Revised

House Bill 818
Judiciary

(Delegate Dumais, *et al.*)

Judicial Proceedings

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

This bill increases the maximum misdemeanor penalties applicable to the crimes of trespass on posted property and wanton trespass on private property. For a first violation, the bill retains the current law maximum penalty of 90 days imprisonment and/or a \$500 fine. For a second violation occurring within two years after the first violation, a violator is subject to maximum penalties of six months imprisonment and/or a \$1,000 fine. A violator who commits a subsequent violation within two years after the preceding violation is subject to maximum penalties of imprisonment for one year and/or a \$2,500 fine for each violation.

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.

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 more people being committed to Division of Corrections (DOC) facilities. Persons serving a sentence of one year or less in a jurisdiction other than Baltimore City are sentenced to local detention facilities. 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 may increase minimally as a result of the bill's increased monetary penalty provisions from cases for subsequent offenses that are heard in the circuit courts. Although these cases will likely be heard in the District Court, the prosecutor has discretion to try the case in the circuit court and 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 12 months of the sentence. 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: HB 874 of 2009 received an unfavorable report from the House Judiciary Committee.

Cross File: SB 670 (Senator Simonaire, *et al.*) - Judicial Proceedings.

Information Source(s): Baltimore, Charles, Frederick, Montgomery, and Somerset counties; Department of Natural Resources; Judiciary (Administrative Office of the Courts); Department of State Police; Department of Legislative Services

Fiscal Note History: First Reader - February 26, 2010
mpc/kdm Revised - Enrolled Bill - May 24, 2010

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