

Department of Legislative Services
Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE

House Bill 582
Judiciary

(Delegates Rosenberg and Clippinger)

Crimes - Electronic Communications - Harassment

This bill alters the prohibition against using electronic mail with the intent to harass to specify the intent to annoy, abuse, torment, or embarrass. The bill's alteration makes the provision consistent with the prohibition against misuse of telephone facilities and equipment.

The bill also alters the definition of "electronic mail" under the prohibition.

Fiscal Summary

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

Local Effect: Potential minimal increase in local revenues and expenditures due to the bill's expanded application of current penalties.

Small Business Effect: None.

Analysis

Bill Summary: The bill defines "electronic mail" as a posting or transmission of information or a communication by the use of a computer, other electronic means, or any available technology that is sent (1) to a person identified by a unique address and that is received by the person; or (2) with a reasonable expectation that other people will receive the information or communication about the person without the person's permission.

The bill prohibits a person from using electronic mail with the intent to harass, annoy, abuse, torment, or embarrass one or more persons.

Current Law: A person may not use electronic mail with the intent to harass (1) one or more persons; or (2) by sending lewd, lascivious, or obscene material. “Electronic mail” means the transmission of information or a communication by the use of a computer or other electronic means that is sent to a person identified by a unique address and that is received by the person. The prohibition does not apply to a peaceable activity intended to express a political view or provide information to others. Violators are guilty of a misdemeanor and subject to maximum penalties of one year imprisonment and/or a \$500 fine.

In addition to the exception for certain peaceable activities, the following persons are authorized to provide information, facilities, or technical assistance to another person who is authorized by federal or State law to intercept or provide electronic mail or to conduct surveillance of electronic mail, if a court order directs the person to provide the information, facilities, or technical assistance: (1) a provider of electronic mail; (2) an officer, employee, agent, landlord, or custodian of a provider of electronic mail; or (3) a person specified in a court order directing the provision of information, facilities, or technical assistance to another who is authorized by federal or State law to intercept or provide electronic mail or to conduct surveillance of electronic mail.

A person may not use telephone facilities or equipment to make (1) an anonymous call that is reasonably expected to annoy, abuse, torment, harass, or embarrass another; (2) repeated calls with the intent to annoy, abuse, torment, harass, or embarrass another; or (3) a comment, request, suggestion, or proposal that is obscene, lewd, lascivious, filthy, or indecent. Violators are guilty of a misdemeanor and subject to maximum penalties of imprisonment for three years and/or a \$500 fine.

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

State Expenditures: General fund expenditures increase minimally as a result of the bill’s expanded application of the current incarceration penalty due to more people being committed to Division of Correction facilities for convictions in Baltimore City.

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 Baltimore City Detention Center, a State-operated facility, is used primarily for pretrial detentions.

Local Revenues: Local revenues increase due to the expanded application of the current monetary penalty in circuit court cases.

Local Expenditures: Expenditures increase as a result of the bill's expanded application of the current incarceration penalty. 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 have ranged from \$57 to \$157 per inmate in recent years.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Carroll, Cecil, Harford, Montgomery, and St. Mary's counties; Commission on Criminal Sentencing Policy; Governor's Office of Crime Control and Prevention; Judiciary (Administrative Office of the Courts); Department of State Police; Office of the Public Defender; State's Attorneys' Association; Department of Legislative Services

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