

Department of Legislative Services  
Maryland General Assembly  
2017 Session

FISCAL AND POLICY NOTE  
First Reader

House Bill 927  
Judiciary

(Delegate Morales, *et al.*)

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Criminal Law - Trespass, Petty Theft, and Disturbing the Peace - Alteration of Penalties

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This bill alters various penalties for trespass, petty theft, disturbing the peace, and obtaining property or services by bad check.

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Fiscal Summary

**State Effect:** Minimal decrease in general fund expenditures for the Department of Public Safety and Correctional Services (DPSCS) due to the bill's reduction of incarceration penalties. Any decrease in resources expended by the Judiciary and the Office of the Public Defender for initial appearances and judicial bail review hearings is likely redirected to other agency operations. Revenues are not affected.

**Local Effect:** Minimal decrease in local incarceration expenditures. Revenues are not affected.

**Small Business Effect:** None.

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Analysis

**Bill Summary:** Exhibit 1 contains information on penalties under existing statute and the bill.

**Exhibit 1**  
**Penalties under the Current Law and the Bill**

<b>Offense</b>	<b>Current Penalty</b>	<b>Penalty under the Bill</b>
Trespass on Posted Property (Criminal Law Article, § 6-402)	<p>First Violation: Imprisonment for up to 90 days and/or \$500 maximum fine</p> <p>Second Violation within 2 Years after First Violation: Imprisonment for up to 6 months and/or \$1,000 maximum fine</p> <p>Each Subsequent Violation Occurring within 2 Years after the Previous Violation: Imprisonment for up to 1 year and/or \$2,500 maximum fine</p>	<p>First Violation: \$500 maximum fine</p> <p>Second Violation: Imprisonment for up to 90 days and/or \$500 maximum fine</p> <p>Third Violation within 2 Years after Second Violation: Imprisonment for up to 6 months and/or \$1,000 maximum fine</p> <p>Each Subsequent Violation Occurring within 2 Years after the Preceding Violation: Imprisonment for up to 1 year and/or \$2,500 maximum fine</p>

<b>Offense</b>	<b>Current Penalty</b>	<b>Penalty under the Bill</b>
<p>Wanton Trespass (Criminal Law Article, § 6-403)</p>	<p>First Violation: Imprisonment for up to 90 days and/or \$500 maximum fine</p> <p>Second Violation Occurring within 2 Years after the First Violation: Imprisonment for up to 6 months and/or \$1,000 maximum fine</p> <p>Each Subsequent Violation Occurring within 2 Years after the Preceding Violation: Imprisonment for up to 1 year and/or \$2,500 maximum fine</p>	<p>First Violation: \$500 maximum fine</p> <p>Second Violation: Imprisonment for up to 90 days and/or \$500 maximum fine</p> <p>Third Violation Occurring within 2 Years after the Second Violation: Imprisonment for up to 6 months and/or \$1,000 maximum fine</p> <p>Each Subsequent Violation Occurring within 2 Years after the Preceding Violation: Imprisonment for up to 1 year and/or \$2,500 maximum fine</p>
<p>Theft of Property or Services – Less than \$100 (Criminal Law Article, § 7-104(g))</p>	<p>Imprisonment for up to 90 days and/or \$500 maximum fine</p>	<p>First Violation: \$500 maximum fine</p> <p>Each Subsequent Violation: Imprisonment for up to 90 days and/or \$500 maximum fine</p>

Offense	Current Penalty	Penalty under the Bill
Newspaper Theft (Criminal Law Article, § 7-106)	Imprisonment for up to 60 days and/or \$500 maximum fine	First Violation: \$500 maximum fine  Each Subsequent Violation: Imprisonment for up to 60 days and/or \$500 maximum fine
Obtaining Property or Services by Bad Check – Less Than \$100 (Criminal Law Article, § 8-106)	Imprisonment for up to 90 days and/or \$500 maximum fine	First Violation: \$500 maximum fine  Each Subsequent Violation: Imprisonment for up to 90 days and/or \$500 maximum fine
Disturbing the Public Peace – Willfully Acting in a Disorderly Manner (Criminal Law Article, § 10-201(c)(2))	Imprisonment for up to 60 days and/or \$500 maximum fine	First Violation: \$500 maximum fine  Each Subsequent Violation: Imprisonment for up to 60 days and/or \$500 maximum fine

Source: Department of Legislative Services

**Current Law:**

*Trespass on Posted Property:* A person may not enter or trespass on property that is posted conspicuously against trespass by (1) signs placed where they reasonably may be seen or (2) paint marks meeting specified criteria. Violators are guilty of a misdemeanor, punishable by (1) imprisonment for up to 90 days and/or a \$500 maximum fine for a first violation; (2) imprisonment for up to six months and/or a \$1,000 maximum fine for a second violation occurring within two years after the first violation; and (3) imprisonment

for up to one year and/or a \$2,500 maximum fine for each subsequent violation occurring within two years after the preceding violation.

*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. A person is also prohibited from remaining 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. Violators are guilty of a misdemeanor, punishable by (1) imprisonment for up to 90 days and/or a \$500 maximum fine for a first violation; (2) imprisonment for up to six months and/or a maximum fine of \$1,000 for a second violation occurring within two years after the first violation; and (3) imprisonment for up to one year and/or a \$2,500 maximum fine for each subsequent violation occurring within two years after the preceding violation.

*General Theft:* A person may not, under specified circumstances (1) willfully or knowingly obtain or exert unauthorized control over property; (2) obtain control over property by willfully or knowingly using deception; (3) possess stolen property knowing that it has been stolen or believing that it probably has been stolen; or (4) obtain control over property knowing that the property was lost, mislaid, or delivered under a mistake as to the identity of the recipient or nature or amount of the property. A violator is required to restore the owner's property or pay the owner the value of the property or services. If the value of the property or services is less than \$100, a violator is guilty of a misdemeanor, punishable by imprisonment for up to 90 days and/or a \$500 fine.

*Newspaper Theft:* A person may not knowingly or willfully obtain or exert control that is unauthorized over newspapers with the intent to prevent another person from reading the newspapers. Violators are guilty of a misdemeanor, punishable by imprisonment for up to 60 days and/or a \$500 maximum fine.

*Obtaining Property or Services by Bad Check – Less Than \$100:* A person who obtains property or services with a value of less than \$100 by issuing or passing an unlawful check is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 90 days and/or a \$500 maximum fine. It is not a defense to the crime of obtaining property or services with a value of less than \$100 by issuing or passing a check that the value of the property or services at issue is \$100 or more.

*Disturbing the Public Peace and Disorderly Conduct:* Among other things, § 10-201 of the Criminal Law Article prohibits a person from willfully acting in a disorderly manner that disturbs the public peace. Violators are guilty of a misdemeanor, punishable by imprisonment by up to 60 days and/or a \$500 maximum fine.

**Background:** Exhibit 2 contains information on the number of violations and guilty dispositions in the District Court during fiscal 2016 for offenses affected by the bill.

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**Exhibit 2**  
**District Court Violations and Guilty Dispositions for Offenses Affected by the Bill**  
**Fiscal 2016**

<b>Offense</b>	<b>Violations</b>	<b>Guilty Dispositions</b>
Trespass on Posted Property (Criminal Law Article, § 6-402)	2,379	260
Wanton Trespass (Criminal Law Article, § 6-403(a) and (b))	7,112	1,105
Theft of Property or Services – Less than \$100 (Criminal Law Article, § 7-104(g)(3))	15,074	2,992
Newspaper Theft (Criminal Law Article, § 7-106)	0	0
Obtaining Property or Services by Bad Check – Less Than \$100 (Criminal Law Article, § 8-106)	0	0
Disturbing the Public Peace – Willfully Acting in a Disorderly Manner (Criminal Law Article, § 10-201(c)(2))	8,430	1,321

Source: Maryland Judiciary

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For those individuals who were prosecuted in the circuit courts during fiscal 2016, the Maryland State Commission on Criminal Sentencing Policy submits the following information:

- for the offenses of trespass and wanton trespass – first violation, 22 individuals were convicted;
- for the offenses of trespass and wanton trespass – second violation, 1 individual was convicted;
- for the offense of theft with property value of less than \$100, 28 individuals were convicted; and
- for all offenses related to disturbing the public peace, including the disorderly conduct offense in the bill, 20 individuals were convicted.

**State Expenditures:** Assuming that the main impact of the bill is the elimination of the incarceration penalties for first-time violations for theft of property (less than \$100) and disorderly conduct, the bill results in a minimal decrease in general fund expenditures for DPSCS due to fewer incarcerations in Baltimore City. Information is not readily available on the number of individuals in this population who actually served jail time and the sentences imposed for those who were incarcerated for these violations.

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 Pretrial Complex, a State-operated facility, is used primarily for pretrial detentions.

DPSCS advises that it is unable to determine the fiscal impact of the bill.

**Local Expenditures:** For the reasons stated above, local expenditures decrease minimally due to fewer incarcerations in local detention facilities.

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 approximately \$60 to \$160 per inmate in recent years.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Maryland State Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Department of Public Safety and Correctional Services; Department of Legislative Services

**Fiscal Note History:** First Reader - February 17, 2017  
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