

Department of Legislative Services
Maryland General Assembly
2020 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1024

(Delegates M. Jackson and Krebs)(By Request -
Commission to Advance Next Generation 9-1-1 Across
Maryland)

Judiciary

Criminal Law - Public Safety - Interference With Agencies and Services -
Prohibitions

This bill expands existing prohibitions and establishes new prohibitions to address misusing telephone facilities and equipment, computers, and computer-related materials to affect the function of a “public safety answering point” (PSAP) or a public safety agency. The bill also prohibits a person from making a false statement to a PSAP and imposes specified penalties for violations.

Fiscal Summary

State Effect: Minimal increase in general fund revenues and expenditures due to the bill’s penalty provisions.

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

Small Business Effect: None.

Analysis

Bill Summary/Current Law: A “public safety answering point” is a communications facility that (1) is operated on a 24-hour basis; (2) first receives 9-1-1 requests for emergency services in a 9-1-1 service area; and (3) as appropriate, dispatches public safety services directly, or transfers 9-1-1 requests for emergency services to appropriate public safety agencies.

Section 3-804 of the Criminal Law Article – Misuse of Telephone Facilities and Equipment

Under current law, 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, punishable by imprisonment for up to three years and/or a \$500 maximum fine.

The bill expands the scope of acts currently prohibited during the use of a telephone or equipment to include (1) sending data that is *reasonably expected* to annoy, abuse, torment, harass, or embarrass another and (2) sending data *with the intent* to annoy, abuse, torment, harass, or embarrass another.

The bill also prohibits a person from violating the prohibition on misuse of telephone facilities and equipment (as amended by the bill) by targeting a PSAP or a public safety agency. A violator is guilty of a felony, punishable by imprisonment for up to five years and/or a \$25,000 maximum fine.

Section 3-804.1 of the Criminal Law Article – Misuse of Telephone Facilities or Equipment – Disruption of PSAP

The bill prohibits a person from using telephone facilities or equipment to make calls or send data to a PSAP or public safety agency with the intent to (1) trigger, affect, or disrupt an emergency response or (2) impair the functioning of the PSAP or public safety agency. A violator is guilty of a felony, punishable by imprisonment for up to five years and/or a \$25,000 maximum fine.

Section 7-302 of the Criminal Law Article – Unauthorized Access to Computers and Related Materials

Under § 7-302 of the Criminal Law Article, a person may not intentionally, willfully, and without authorization, access or attempt to access, cause to be accessed, or exceed the person's authorized access to all or part of a computer or a computer network, language, software, system, service, or database. Also, a person may not intentionally, willfully, and without authorization, copy, attempt to copy, possess, or attempt to possess the contents of all or part of a computer database that was unlawfully accessed. A violation of these provisions is a misdemeanor, and the violator is subject to maximum penalties of imprisonment for three years and/or a fine of \$1,000.

A person may not intentionally, willfully, and without authorization, commit unlawful access or attempted access, as specified, with the intent to (1) cause the malfunction or interruption of any or all parts of a computer, network, language, software, service, or data; (2) alter, damage, or destroy all or any part of data or a program stored, maintained, or produced by a computer, network, software, system, service, or database; or (3) possess, identify, or attempt to identify a valid access code or publicize or distribute a valid access code to an unauthorized person.

If the aggregate amount of the loss is \$10,000 or more, the violator is guilty of a felony and is subject to maximum penalties of imprisonment for 10 years and/or a fine of \$10,000. If the aggregate loss is less than \$10,000, the violator is guilty of a misdemeanor and is subject to maximum penalties of imprisonment for 5 years and/or a fine of \$5,000.

Under § 7-302(c)(4) of the Criminal Law Article, a person may not gain or attempt to gain unauthorized access to computer services with the intent to interrupt or impair the functioning of (1) State government; (2) a service provided in the State by a public service company; or (3) a natural gas or electric service, device, or system provided in the State by a person other than a public service company.

If the aggregate amount of the loss associated with this prohibition is \$50,000 or more, a violator is guilty of a felony and subject to maximum penalties of 10 years imprisonment and/or a \$25,000 fine. If the aggregate loss is less than \$50,000, a violator is guilty of a misdemeanor and is subject to maximum penalties of 5 years imprisonment and/or a \$25,000 fine.

Access achieved in a prohibited manner under a single scheme or a continuing course of conduct may be considered one violation. A defendant may be tried in any county in Maryland where the act was performed or the accessed computer was located.

The bill prohibits an individual from committing any of these acts with the intent to interrupt or impair the functioning of a PSAP. A violator is guilty of a felony, punishable by imprisonment for up to 5 years and/or a \$25,000 maximum fine. If a person commits a prohibited act that interrupts the functioning of a PSAP, the person is guilty of a felony and subject to imprisonment for up to 10 years and/or a fine up to \$50,000.

Section 9-501 of the Criminal Law Article – False Statements to Law Enforcement Officers

Currently, a person may not make, or cause to be made, a statement, report, or complaint that the person knows to be false to a law enforcement officer with intent to deceive and to cause an investigation or other action to be taken as a result of the statement, report, or complaint. A violator is guilty of a misdemeanor, punishable by imprisonment for up to six months and/or a \$500 maximum fine.

The bill expands § 9-501 by prohibiting a person from making or causing to be made a statement, report, or complaint that the person knows to be false to a PSAP. A violator is guilty of a misdemeanor and subject to the existing penalty of imprisonment for up to six months and/or up to \$500.

The bill also prohibits a person from committing a prohibited act under § 9-501 (as amended by the bill) that results in law enforcement personnel being dispatched to respond to the statement, report, or complaint. A violator is guilty of a felony and subject to imprisonment for up to three years and/or a \$5,000 maximum fine.

Under the bill, a person who commits a prohibited act under § 9-501 (as amended by the bill) that results in serious bodily injury to any person is guilty of a felony and subject to imprisonment for up to five years and/or a \$25,000 maximum fine.

Background: Chapters 301 and 302 of 2018 established the Commission to Advance Next Generation 9-1-1 Across Maryland to study and make recommendations regarding next generation 9-1-1 emergency communication services. The commission's final [report](#), which was submitted in December 2019, included a recommendation to update State laws regarding telephone misuse and cyber attacks. The bill reflects specific areas of concern in that recommendation.

Exhibit 1 contains fiscal 2019 statistics on violations and convictions in the trial courts for offenses related to the bill. A violation is a charge filed in the court. It is not a conviction, and one person may be associated with multiple violations.

Exhibit 1
Violations and Convictions for Offenses Related to the Bill
District Court and Circuit Courts
Fiscal 2019

<u>Criminal Law Article</u>	<u>District Court Violations</u>	<u>District Court Convictions</u>	<u>Circuit Court Violations</u>	<u>Circuit Court Convictions</u>
§ 3-804(a)(1)	173	1	11	1
§ 3-804(a)(2)	903	40	127	26
§ 3-804(a)(3)	53	3	15	3
§ 7-302(c)(2)(i)	19	0	0	0
§ 7-302(c)(2)(ii)	1	0	2	0
§ 7-302(c)(3)	0	0	5	0
§ 7-302(c)(4) (less than \$50,000)	7	0	0	0
§ 7-302(c)(4) (more than \$50,000)	0	0	0	0
§ 7-302(c)(1)(ii)	0	0	0	0
§ 7-302(c)(1)(i)	4	0	6	2
§ 9-501	171	11	55	4

Source: Maryland Judiciary

State Revenues: General fund revenues increase minimally as a result of the bill's monetary penalty provisions and altered application of existing monetary penalties from cases heard in the District Court.

State Expenditures: General fund expenditures increase minimally as a result of the bill's incarceration penalties and altered application of existing incarceration penalties due to more people being committed to State correctional facilities and increased payments to counties for reimbursement of inmate costs. The number of people convicted as a result of the bill is expected to be minimal.

Persons serving a sentence longer than 18 months are incarcerated in State correctional facilities. Currently, the average total cost per inmate, including overhead, is estimated at \$3,800 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 a State correctional facility. The State provides assistance to the counties for locally sentenced inmates and for (1) inmates who are

sentenced to and awaiting transfer to the State correctional system; (2) sentenced inmates confined in a local detention center between 12 and 18 months; and (3) inmates who have been sentenced to the custody of the State but are confined in or who receive reentry or other prerelease programming and services from 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 State correctional facilities. The Baltimore Pretrial Complex, 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 and altered application of existing monetary penalties from cases heard in the circuit courts.

Local Expenditures: Expenditures increase minimally as a result of the bill's incarceration penalties and altered application of existing 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 have ranged from approximately \$40 to \$170 per inmate in recent years.

Additional Information

Prior Introductions: None.

Designated Cross File: SB 837 (Senators Kagan and Reilly)(By Request - Commission to Advance Next Generation 9-1-1 Across Maryland) - Judicial Proceedings.

Information Source(s): Maryland Institute for Emergency Medical Services Systems; Baltimore City; Harford and Wicomico counties; Maryland Association of Counties; Maryland Municipal League; Maryland State Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Office of the Public Defender; Department of Public Safety and Correctional Services; Department of State Police; Department of Legislative Services

Fiscal Note History: First Reader - February 23, 2020
rh/aad

Analysis by: Donovan A. Ham

Direct Inquiries to:
(410) 946-5510
(301) 970-5510