

Department of Legislative Services
Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE

House Bill 737
Judiciary

(Delegate Olszewski, *et al.*)

Crimes - Malicious Destruction of Property by Graffiti - Penalties

This bill alters the requirement that a court order a person convicted of causing malicious destruction of property by an act of graffiti to pay restitution *and/or* perform community service by requiring a court to order payment of restitution *and* performance of community service.

Fiscal Summary

State Effect: Due to the small number of cases affected by the bill, the bill's provisions are not expected to materially affect State finances.

Local Effect: Due to the small number of cases affected by the bill, the bill's provisions are not expected to materially affect local government finances.

Small Business Effect: None.

Analysis

Current Law: State law defines "graffiti" as a permanent drawing, permanent painting, or a permanent mark or inscription on the property of another without the permission of the property owner.

A person may not willfully and maliciously destroy, injure, or deface the real or personal property of another. A violator who causes at least \$500 of damage to the property is guilty of a misdemeanor and is subject to maximum penalties of three years imprisonment and/or a \$2,500 fine. If the damage is valued at less than \$500, a violator is guilty of a misdemeanor and is subject to maximum penalties of 60 days imprisonment

and/or a \$500 fine. The court may consider as one crime the aggregate value of damage to each property resulting from one scheme or continuing course of conduct. If it cannot be determined from the evidence whether the value of the property damage is more or less than \$500, the value is deemed to be less than \$500.

In addition to the penalties listed above, a court must order a person convicted of causing malicious destruction by an act of graffiti to pay restitution and/or perform community service.

If an individual is on supervised probation, the Department of Public Safety and Correctional Services (DPSCS) monitors and verifies compliance with any court-ordered community service. Community service personnel monitor compliance with court-ordered community service for individuals who are not on supervised probation. The Department of Juvenile Services (DJS) performs this function in juvenile cases.

DPSCS processes payments of restitution ordered as part of a criminal sentence in adult cases. DJS performs this function in juvenile cases.

Background: According to the Maryland State Commission on Criminal Sentencing Policy, there were 49 convictions in Maryland's circuit courts for malicious destruction of property of at least \$500 in fiscal 2011. Thirty-three of the 49 convictions included some period of incarceration. Among those incarcerated, the average sentence was 10.8 months. In fiscal 2011, there were 36 convictions in Maryland's circuit courts for malicious destruction of property valued at less than \$500. Twenty-three of the 36 convictions included some period of incarceration. Among those incarcerated, the average sentence was 1.4 months. There is no data on how many of these convictions involved the use of graffiti.

According to the District Court, between calendar 2009 and 2011, there were 250 adjudicated cases of malicious destruction of property. There is no data on how many of these cases involved the use of graffiti.

Additional Information

Prior Introductions: HB 25 of 2012 received an unfavorable report from the House Judiciary Committee.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts), Maryland State Commission on Criminal Sentencing Policy, Department of Legislative Services

Fiscal Note History: First Reader - February 15, 2013
mm/kdm

Analysis by: Amy A. Devadas

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