

Department of Legislative Services
Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE

House Bill 897
Judiciary

(Delegate Olszewski, *et al.*)

Crimes - Malicious Destruction of Property - Repeat Offenders

This bill establishes enhanced penalties for a second or subsequent offense for malicious destruction of property. The bill applies the existing statutory penalties to a first offense for malicious destruction of property. Under the bill, malicious destruction of property causing damage of at least \$1,000 is a misdemeanor, punishable by imprisonment for up to three years and/or a maximum fine of \$2,500 for a first offense and imprisonment for up to six years and/or a fine of \$5,000 for a second or subsequent offense. Malicious destruction of property causing damage of less than \$1,000 is a misdemeanor, punishable by imprisonment for up to 60 days and/or a maximum fine of \$500 for a first offense and imprisonment for up to 180 days and/or a maximum fine of \$1,000 for a second or subsequent offense.

Fiscal Summary

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

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

Small Business Effect: None.

Analysis

Current Law: A person may not willfully and maliciously destroy, injure, or deface the real or personal property of another. A violator causing damage of at least \$1,000 to the property is guilty of a misdemeanor and subject to maximum penalties of imprisonment

for three years and/or a fine of \$2,500. A violator causing damage of less than \$1,000 to the property is guilty of a misdemeanor and subject to maximum penalties of imprisonment for 60 days and/or a fine of \$500.

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

The value of damage is based on the evidence and that value must be applied for the purpose of imposing penalties. If it cannot be determined from the evidence whether the value of the damage to the property is more or less than \$1,000, the value is deemed to be less than \$1,000. To determine a penalty, the court may consider the aggregate value of damage to each property resulting from one scheme or continuing course of conduct as one crime. If separate acts resulting in damage to the properties of one or more owners are set forth by separate counts in one or more charging documents, the separate counts may not be merged for sentencing.

Background: According to the Maryland State Commission on Criminal Sentencing Policy, there were 50 convictions for malicious destruction of property of at least \$500 and 35 convictions for malicious destruction of property less than \$500 in the State's circuit courts during fiscal 2013. According to the District Court, between calendar 2009 and 2011, there were 250 adjudicated cases of malicious destruction of property.

Chapter 415 of 2013 altered the threshold values for malicious destruction of property from \$500 to \$1,000, effective October 1, 2013.

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

State Expenditures: General fund expenditures increase minimally as a result of the bill's enhanced incarceration penalties due to people being committed to State correctional facilities for longer periods of time.

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 \$3,100 per month. This bill alone, however, should not create the need for additional beds, personnel, or facilities. Excluding overhead, the average cost of housing a new State inmate (including variable health care costs) is about \$735 per month. Excluding all health care, the average variable costs total \$185 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. Prior to fiscal 2010, the State reimbursed counties for part of their incarceration costs, on a per diem basis, after a person had served 90 days. Currently, the State provides assistance to the counties for locally sentenced inmates and for inmates who are sentenced to and awaiting transfer to the State correctional system. A \$45 per diem grant is provided to each county for each day between 12 and 18 months that a sentenced inmate is confined in a local detention center. Counties also receive an additional \$45 per day grant for inmates who have been sentenced to the custody of the State but are confined in 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 City Detention Center, a State-operated facility, is used primarily for pretrial detentions.

Local Revenues: Revenues increase minimally as a result of the bill's enhanced monetary penalty provisions from cases heard in the circuit courts.

Local Expenditures: Expenditures increase minimally as a result of the bill's enhanced incarceration penalties. Counties pay the full cost of incarceration for people in their facilities for the first 12 months of the sentence. A \$45 per diem State grant is provided to each county for each day between 12 and 18 months that a sentenced inmate is confined in a local detention center. Counties also receive an additional \$45 per day grant for inmates who have been sentenced to the custody of the State but are confined in a local facility. Per diem operating costs of local detention facilities have ranged from approximately \$60 to \$160 per inmate in recent years.

Additional Information

Prior Introductions: None.

Cross File: None.

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

Fiscal Note History: First Reader - February 21, 2014
ncs/kdm

Analysis by: Amy A. Devadas

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

