

Department of Legislative Services
Maryland General Assembly
2016 Session

FISCAL AND POLICY NOTE
Third Reader

House Bill 493
Judiciary

(Delegate Morales, *et al.*)

Judicial Proceedings

Criminal Law - Extortion - Immigration Status

This bill expands the State's general extortion statute by prohibiting a person from committing acts prohibited under the extortion statute by wrongful use of actual or threatened notification of law enforcement officials about another person's undocumented or illegal immigration status.

Fiscal Summary

State Effect: Minimal increase in general fund revenues and expenditures due to the bill's expanded application of an existing penalty provision.

Local Effect: Minimal increase in local revenues and expenditures due to the bill's expanded application of an existing penalty provision.

Small Business Effect: None.

Analysis

Current Law: Under the State's general extortion statute, a person may not obtain, attempt to obtain, or conspire to obtain money, property, labor, services, or anything of value from another person with the person's consent, if the consent is induced by wrongful use of actual or threatened (1) force or violence; (2) economic injury; or (3) destruction, concealment, removal, confiscation, or possession of any immigration or government identification document with intent to harm the immigration status of another person.

The prohibition does not apply to legitimate efforts by employees or their representatives to obtain certain wages, hours, or working conditions.

Classification of and penalties for violations of the statute vary based on the value of the property, labor, or services extorted, as noted in **Exhibit 1**. A prosecution for felony extortion must be instituted within five years after the crime was committed.

Exhibit 1
Classification of and Penalties for Violations of the General Extortion Statute

Value of Property, Labor, or Services Extorted	Classification and Penalty
Less than \$1,000	Misdemeanor Imprisonment for up to 18 months and/or a \$1,000 maximum fine
At least \$1,000 but less than \$10,000	Felony Imprisonment for up to 10 years and/or a \$10,000 maximum fine
At least \$10,000 but less than \$100,000	Felony Imprisonment for up to 15 years and/or a \$15,000 maximum fine
\$100,000 or more	Felony Imprisonment for up to 25 years and/or a \$25,000 maximum fine

Source: Department of Legislative Services

Background: In fiscal 2015, State correctional facilities received three offenders convicted of extortion. According to the Department of Public Safety and Correctional Services (DPSCS), extortion was not the most serious offense for any of the offenders. In fiscal 2015, DPSCS conducted 12 probation intakes under the database code for extortion.

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

State Expenditures: General fund expenditures increase minimally as a result of the bill's expanded 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 of this proposed crime 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 \$3,300 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 \$770 per month. Excluding all health care, the average variable costs total \$200 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 Pretrial Complex, a State-operated facility, is used primarily for pretrial detentions.

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

Local Expenditures: Expenditures increase minimally as a result of the bill's expanded 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. 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: SB 178 (Senator Lee, *et al.*) - Judicial Proceedings.

Information Source(s): Maryland State Commission on Criminal Sentencing Policy, Judiciary (Administrative Office of the Courts), Office of the Public Defender, State's Attorneys' Association, Department of Public Safety and Correctional Services, Department of State Police, Department of Legislative Services

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