

**Department of Legislative Services**  
Maryland General Assembly  
2021 Session

**FISCAL AND POLICY NOTE**  
**First Reader**

Senate Bill 101 (Senators Kagan and Reilly)  
Judicial Proceedings

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

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This bill expands existing prohibitions and establishes new prohibitions to address misusing telephone facilities, data files, 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.

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**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.

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**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. The bill prohibits the use of data files for these prohibited purposes. 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, data files, 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, data files, 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 Material*

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 or (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. A person also may not intentionally, willfully, and without authorization (1) possess, identify, or attempt to identify a valid access code or (2) 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 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 a fine 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.

**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 \$3,900 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.

The Office of the Public Defender (OPD) advises that the bill increases agency caseloads and that it may need to hire additional staff to manage its caseloads. However, OPD provided no information on the bill's anticipated effect on the agency's caseloads and noted that it cannot calculate the bill's impact on its expenditures. The Department of Legislative Services advises that the bill is unlikely to generate enough additional cases to warrant the hiring of additional OPD staff.

**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.

The Maryland State's Attorneys' Association advises that the bill has no fiscal or operational effect on prosecutors.

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### **Additional Information**

**Prior Introductions:** SB 837 of 2020 received a hearing in the Senate Judicial Proceedings Committee, but no further action was taken. Its cross file, HB 1024, received a hearing in the House Judiciary Committee, but no further action was taken.

**Designated Cross File:** None.

**Information Source(s):** Maryland Institute for Emergency Medical Services Systems; Harford, Montgomery, 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; Maryland State's Attorneys' Association; Department of Public Safety and Correctional Services; Department of State Police; Department of Legislative Services

**Fiscal Note History:** First Reader - January 18, 2021  
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