

Department of Legislative Services
Maryland General Assembly
2021 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 438
Judiciary

(Delegate Mangione)

Crimes – Malicious Destruction of Historically Significant Monument
(Monument Protection Act of 2021)

This bill prohibits a person from willfully and maliciously destroying, damaging, vandalizing, or desecrating a “historically significant monument.” Violators are guilty of a misdemeanor and subject to penalties that vary based on the value of the damage caused by the violator, as described below.

Fiscal Summary

State Effect: The bill is not expected to materially affect State finances or operations.

Local Effect: The bill is not expected to materially affect local finances or operations.

Small Business Effect: None.

Analysis

Bill Summary: A “historically significant monument” is a monument, memorial, or statue that is not owned by the defendant and has been dedicated or is maintained by a State or local government.

A violator who causes damage of *at least* \$1,000 to property is guilty of a misdemeanor and subject to imprisonment for up to 10 years with a nonsuspendable and nonparolable mandatory minimum sentence of 1 year and/or a \$2,500 maximum fine. A violator who causes damage of *less than* \$1,000 to property is guilty of a misdemeanor and subject to imprisonment for up to 3 years with a nonsuspendable and nonparolable mandatory minimum sentence of six months and/or a \$500 maximum fine.

In determining a penalty, a court may consider as one crime the aggregate value of damage to each property resulting from one scheme or continuing course of conduct. However, 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.

The value of damage is not a substantive element of the crime and need not be stated in the charging document. Rather, the value of damage must be based on the evidence and applied for the purpose of imposing penalties. If it cannot be determined from the evidence whether the value of the damage to property is more or less than \$1,000, the value is deemed to be less than \$1,000.

Current Law: The bill's provisions are similar to the prohibition on malicious destruction of property under § 6-301 of the Criminal Law Article. Under that section, a person may not willfully and maliciously destroy, injure, or deface the real or personal property of another. A violator who causes damage of *at least* \$1,000 to property is guilty of a misdemeanor and subject to imprisonment for up to three years and/or a \$2,500 maximum fine. A violator who causes damage of *less than* \$1,000 to property is guilty of a misdemeanor and subject to imprisonment for up to 60 days and/or a \$500 maximum fine. A court may additionally order a person to pay restitution and/or perform community service for causing malicious destruction by an act of graffiti, as specified.

In determining a penalty, a court may consider as one crime the aggregate value of damage to each property resulting from one scheme or continuing course of conduct. However, 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.

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Additional Information

Prior Introductions: None.

Designated Cross File: SB 443 (Senator West) - Judicial Proceedings.

Information Source(s): Baltimore, Charles, Frederick, and Montgomery counties; City of Havre de Grace; 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 General Services; Department of Public Safety and Correctional Services; Maryland State Archives; Department of Legislative Services

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