

Department of Legislative Services
Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 273

(Chair, Judicial Proceedings Committee)(By Request -
Departmental - Public Safety and Correctional Services)

Judicial Proceedings

Judiciary

**State and Local Correctional Facilities - Operation of Unmanned Aircraft -
Image Recording and Delivery of Contraband**

This departmental bill prohibits a person from intentionally operating an “unmanned aircraft” (UA) over a correctional facility for the purpose of photographing or recording images of the correctional facility through the use of the UA unless authorized by the managing official of the correctional facility or the Secretary of Public Safety and Correctional Services. The bill also prohibits a person from using a UA to deliver any contraband to a person detained or confined in a place of confinement. A violator of either of these prohibitions is guilty of a misdemeanor and subject to maximum penalties of imprisonment for three years and/or a \$1,000 fine. A correctional facility must post signage warning of the bill’s provisions on the exterior of the property in an area visible to the public.

Fiscal Summary

State Effect: Potential minimal increase in general fund revenues and expenditures due to the bill’s penalty provisions.

Local Effect: Potential minimal increase in revenues and expenditures due to the bill’s penalty provisions.

Small Business Effect: The Department of Public Safety and Correctional Services (DPSCS) has determined that this bill has minimal or no impact on small business (attached). The Department of Legislative Services concurs with this assessment. (The attached assessment does not reflect amendments to the bill.)

Analysis

Current Law:

Unmanned Aircraft: Chapter 164 of 2015 established that only the State may enact a law or take other official action to restrict, prohibit, or otherwise regulate the testing or operation of UAs. The authority of a county or municipality to prohibit, restrict, or otherwise regulate the testing or operation of UAs is preempted by this law, and any prior enacted local laws are superseded.

Contraband: A person may not (1) deliver any contraband to a person detained or confined in a place of confinement; (2) possess any contraband with intent to deliver it to a person detained or confined in a place of confinement; or (3) knowingly possess contraband in a place of confinement. A violator is guilty of a misdemeanor and subject to maximum penalties of imprisonment for three years and/or a fine of \$1,000. A sentence imposed for a contraband offense may be imposed as consecutive to or concurrent with a sentence for any crime based on the act establishing the offense.

Place of Confinement: “Place of confinement” means (1) a correctional facility; (2) a facility of the Maryland Department of Health; (3) a detention center or facility for juveniles, as specified; (4) a place identified in a juvenile community detention order; or (5) any other facility in which a person is confined under color of law. “Place of confinement” does not include a place identified in a home detention order or agreement.

Background: Unmanned aerial vehicles (UAVs), or drones, have become increasingly popular. UAVs come in various sizes, ranging from the size of an insect (nanodrones or micro-UAVs) to the size of a jetliner. Drones are operated by remote control with personnel on the ground and/or autonomous programming. The entire system required to operate a drone – the personnel, the programming or digital network, and the aircraft – is referred to as an unmanned aerial system.

DPSCS advises that individuals are increasingly using UAVs to deliver contraband (such as cell phones, controlled dangerous substances, and weapons) into correctional facilities, which places the incarcerated population and correctional officers at heightened risk.

The Federal Aviation Administration adopted regulations in 2018 prohibiting the operation of UAVs within 400 feet of 20 federal Bureau of Prisons facilities. DPSCS advises that while it can prohibit the use of UAVs above State correctional facilities through policy, there is no statute specifically prohibiting the activity and, therefore, no associated criminal penalty.

Additional Information

Recent Prior Introductions: Similar legislation has been introduced within the last three years. See SB 702 of 2023.

Designated Cross File: None.

Information Source(s): Anne Arundel, Baltimore, Charles, Garrett, and Howard counties; 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 Legislative Services

Fiscal Note History: First Reader - February 1, 2024
km/lgc Third Reader - March 16, 2024
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ANALYSIS OF ECONOMIC IMPACT OF SMALL BUSINESS

TITLE OF BILL: State and Local Correctional Facilities - Operation of Unmanned Aircraft -
Image Recording and Delivery of Contraband

BILL NUMBER: SB 273

PREPARED BY: Jennifer Beskid

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

X WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL
BUSINESS

OR

___ WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL
BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

The bill seeks to clean up existing language within the Public Safety Article deleting outdated language and clarifying existing language. There will be no economic impact as a result of the changes to the language.