

Department of Legislative Services
Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE

House Bill 323
Judiciary

(Delegate Stukes, *et al.*)

Criminal Law - Malicious Destruction of Property - Transit Vehicles

This bill imposes a mandatory minimum, nonsuspendable imprisonment sentence of 30 days on a person convicted of malicious destruction of property for damage done to a “transit vehicle.” A violator must also be ordered to pay restitution in accordance with existing specified provisions.

Fiscal Summary

State Effect: Potential minimal increase in Division of Correction costs as a result of the bill’s mandatory minimum incarceration provision applied to persons convicted of this offense in Baltimore City.

Local Effect: Potential minimal increase in local detention facility costs as a result of the bill’s mandatory minimum incarceration provision. Revenues would not be affected.

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 \$500 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 \$500 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.

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.

The value of damage is not a substantive element of a crime and need not be stated in the charging document. 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 \$500, the value is deemed to be less than \$500.

Under § 7-101 of the Transportation Article, the term “transit vehicle” means a mobile device used in rendering “transit service,” which is defined as the transportation of persons and their packages and baggage and of newspapers, express, and mail in regular route, special, or charter service by means of transit facilities between points within the Metropolitan Transit District. That district consists of Baltimore City, Baltimore County, Anne Arundel County, and other areas so designated, as specified, subject to the provisions of the Washington Metropolitan Transit Authority Compact. The district may also include any area in which railroad service is performed under contract with MTA or in which railroad facilities are owned by MTA. Transit service does not include any taxicab service, vanpool operation, or railroad service.

Background: Recent reports of rowdy and criminal behavior on transit vehicles in the Baltimore area, including personal assaults, has given rise to personal safety and property concerns related to such circumstances.

Three transit organizations that operate in Maryland have sworn police officers: the Maryland Transit Administration (MTA), the Washington Metropolitan Area Transit Authority (WMATA), and Amtrak. None of the State’s 24 locally operated transit systems have police agencies. They rely on local police departments and to some extent the Maryland State Police for law enforcement on transit vehicles.

The MTA police handle the majority of arrests on MTA transit vehicles. MTA has also signed memoranda of understanding with Baltimore City, Baltimore County, and Anne Arundel County providing for concurrent jurisdiction between the MTA police and the local police agencies in those jurisdictions.

According to MTA, courts currently order restitution only in cases where graffiti was the cause of the damage.

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

State Expenditures: General fund expenditures could increase minimally as a result of the bill's mandatory minimum incarceration penalty for persons convicted in Baltimore City and being committed to Division of Correction (DOC) facilities. The number of people convicted of this proposed crime is expected to be minimal.

Generally, persons serving a sentence of one year or less in a jurisdiction other than Baltimore City are sentenced to a local detention facility. The State reimburses counties for part of their incarceration costs, on a per diem basis, only after a person has served 90 days. Persons sentenced to such a term in Baltimore City are generally incarcerated in a DOC facility. Currently, the DOC average total cost per inmate, including overhead, is estimated at \$2,600 per month. Excluding overhead, the average cost of housing a new DOC inmate (including medical care and variable costs) is \$526 per month. Excluding medical care, the average variable costs total \$148 per month.

Local Expenditures: Expenditures could increase minimally as a result of the bill's mandatory minimum incarceration penalty. Counties pay the full cost of incarceration for people in their facilities for the first 90 days of the sentence. Per diem operating costs of local detention facilities are expected to range from \$40 to \$129 per inmate in fiscal 2009.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Judiciary (District Court), Maryland Department of Transportation (Maryland Transit Administration), Commission on Criminal Sentencing Policy, Department of Public Safety and Correctional Services, Department of Legislative Services

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