

Department of Legislative Services  
Maryland General Assembly  
2010 Session

FISCAL AND POLICY NOTE  
Revised

House Bill 778

(Delegate Lee, *et al.*)

Judiciary

Judicial Proceedings

---

**Crimes - Unauthorized Computer Access for Sabotage of State Government,  
Public Utilities, or Other Energy Infrastructure**

---

This bill prohibits a person from engaging in currently prohibited activities pertaining to unauthorized access to computers and related material 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) natural gas or electric service, device, or system provided in the State by someone 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 valued at less than \$50,000, a violator is guilty of a misdemeanor and is subject to maximum penalties of five years imprisonment and/or a \$25,000 fine.

---

**Fiscal Summary**

**State Effect:** Potential minimal increase in State revenues and expenditures due to the bill's penalty provisions.

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

**Small Business Effect:** None.

---

**Analysis**

**Current Law:** State law defines a "public service company" as a common carrier company, electric company, gas company, sewage disposal company, telegraph

company, telephone company, water company, or any combination of public service companies. A person may not intentionally, willfully, and without authorization:

- access, attempt to access, cause to be accessed, or exceed his/her authorized access to a computer, computer network, computer control language, computer software, computer system, computer service, or computer database; or
- copy, attempt to copy, possess, or attempt to possess the content of all or part of a computer database accessed through unauthorized means.

Violators are guilty of a misdemeanor and are subject to maximum penalties of three years imprisonment and/or a \$1,000 fine. If a person engages in these activities with the intent to alter, damage, destroy, cause the malfunction of, or interrupt the operation of a computer or other specified computer-related features or services, the person is guilty of an offense in which classification and penalties are dependent on the monetary value of the aggregate loss. If the aggregate loss is valued at \$10,000 or more, a violator is guilty of a felony, punishable by maximum penalties of 10 years imprisonment and/or a \$10,000 fine. If the aggregate loss is valued at less than \$10,000, a violator is guilty of a misdemeanor, punishable by maximum penalties of imprisonment for five years and/or a \$5,000 fine.

A person is also prohibited from intentionally, willfully, and without authorization: (1) possessing, identifying, or attempting to identify a valid access code; or (2) publicizing or distributing a valid access code to an unauthorized person. If the aggregate loss is valued at \$10,000 or more, a violator is guilty of a felony and is subject to maximum penalties of 10 years imprisonment and/or a \$10,000 fine. If the aggregate loss is valued at less than \$10,000, a violator is guilty of a misdemeanor and is subject to maximum penalties of imprisonment for five years and/or a \$5,000 fine.

Prohibited access achieved under a single scheme or through a continuing course of conduct may be considered as one violation of the statute. A prosecution for a violation of the statute may occur in the county where the defendant performed the prohibited act or where the accessed computer is located.

**Background:** The security of the nation's power grid and public utilities has been a growing concern since the attacks on September 11, 2001. During the past decade, public utility companies have implemented remotely controlled operations in an effort to streamline operations and cut costs. While the added convenience and cost savings that result from these systems have obvious benefits, the wireless Internet connections on which they rely make these companies more vulnerable to cyber attacks. In January 2008, the Central Intelligence Agency's top cybersecurity analyst announced that cyber attackers have hacked into the computer systems of foreign utility companies and have made demands as part of their attacks. At least one of the attacks resulted in a

multi-city power outage. That same month, the Federal Energy Regulatory Commission approved eight new mandatory critical infrastructure protection reliability standards for cyber security. The standards are aimed at protecting the nation's bulk power system from cyber attacks and address the following areas: (1) critical cyber asset identification; (2) security management controls; (3) personnel and training; (4) electronic security perimeters; (5) physical security of critical cyber assets; (6) systems security management; (7) incident reporting and response planning; and (8) recovery plans for critical cyber assets.

According to recent news reports, utility companies will spend more than \$21 billion on cybersecurity over the next five years.

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

**State Expenditures:** General fund expenditures increase minimally as a result of the bill's incarceration penalties due to people being committed to Division of Correction (DOC) facilities for longer periods of time 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 DOC facilities. Currently, the average total cost per inmate, including overhead, is estimated at \$2,750 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 DOC inmate (including variable medical care and variable operating costs) is \$409 per month. Excluding all medical care, the average variable costs total \$182 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 DOC. Prior to fiscal 2010, the State reimbursed counties for part of their incarceration costs, on a per diem basis, after a person has 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 Division of Correction 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 DOC facilities. The Baltimore City Detention Center, a State-operated facility, is used primarily for pretrial detentions.

**Local Revenues:** Revenues increase minimally as a result of the bill's monetary penalty provision from cases heard in the circuit courts.

**Local Expenditures:** Expenditures increase minimally as a result of the bill's 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 Division of Correction but are confined in a local facility. Per diem operating costs of local detention facilities are expected to range from \$57 to \$157 per inmate in fiscal 2011.

---

### Additional Information

**Prior Introductions:** HB 195 of 2004 received a hearing in the House Judiciary Committee, but was later withdrawn.

**Cross File:** None.

**Information Source(s):** Caroline County, Judiciary (Administrative Office of the Courts), Office of People's Counsel, Office of the Public Defender, Public Service Commission, State's Attorneys' Association, Federal Energy Regulatory Commission, *washingtonpost.com*, *InformationWeek*, *Government Technology*, Pike Research, Department of Legislative Services

**Fiscal Note History:** First Reader - March 5, 2010  
mpc/kdm Revised - House Third Reader - March 30, 2010  
Revised - Enrolled Bill - May 25, 2010

---

Analysis by: Amy A. Devadas

Direct Inquiries to:  
(410) 946-5510  
(301) 970-5510