

Department of Legislative Services  
Maryland General Assembly  
2005 Session

FISCAL AND POLICY NOTE

House Bill 197  
Judiciary

(Delegate Benson)

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**Criminal Procedure - Defendants on Probation for Committing Sex-Related Crimes Against Minors**

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This bill authorizes a court to establish areas within which, as a condition of probation, a defendant who has been convicted of a sex-related crime against a minor may not enter while on probation.

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**Fiscal Summary**

**State Effect:** The bill's requirements could be handled with the Department of Public Safety and Correctional Services' existing resources.

**Local Effect:** None.

**Small Business Effect:** None.

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**Analysis**

**Bill Summary:** Covered crimes include first and second degree rape; a first, second, or three degree sexual offense; child pornography; prostitution; and, if the action was taken with the intent to sexually abuse a minor victim, kidnapping, child kidnapping, or common law false imprisonment.

An order of probation entered under this bill may prohibit the defendant from: (1) supervising or participating in any program that regularly provides any athletic, civic, or cultural activity that includes a minor as a participant; or (2) loitering within 500 feet of the perimeter of any premises used by a victim of the defendant or primarily used by minors, including a school, day care facility, playground, public or private youth center, public swimming pool, and video arcade facility.

The court may also require the defendant to attend psychological counseling sessions with an individual or organization that provides sex offender treatment or counseling, as specified or approved by the judge or the Division of Parole and Probation.

A court may deviate from the above requirements if the court determines that to do so would be appropriate under the circumstances and would not endanger children in the community. The court may modify these conditions at any time on motion of the defendant, if the court determines that a condition interferes with the defendant's ability to attend school, maintain employment, or maintain family relationships (when there is no likelihood of the defendant's committing a sexual offense with a family member who is a minor); or that it is broader than necessary to protect the public, given the nature and circumstances of the offense.

**Current Law:** A person convicted of a crime may be sentenced to a period of probation, in place of or in addition to a period of imprisonment. With certain exceptions not germane to this bill, courts generally may impose whatever conditions of probation they consider appropriate.

**Additional Comments:** The Division of Parole and Probation notes that it can be difficult to enforce provisions that require a probationer to avoid specific areas or buildings.

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### **Additional Information**

**Prior Introductions:** A similar bill, SB 83, was introduced in 2004. It passed the Senate, had a hearing before the House Judiciary Committee, and had no further action taken on it.

**Cross File:** None.

**Information Source(s):** Judiciary (Administrative Office of the Courts), Department of Public Safety and Correctional Services, Department of Legislative Services

**Fiscal Note History:** First Reader - January 27, 2005  
mam/jr

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