

Department of Legislative Services
 Maryland General Assembly
 2012 Session

FISCAL AND POLICY NOTE

Senate Bill 370 (Senators Stone and Klausmeier)
 Judicial Proceedings

Criminal Procedure - State Child Abuse Registry

This bill requires a person convicted of criminal child abuse to register with a new State Child Abuse Registry, modeled after the State Sex Offender Registry.

Fiscal Summary

State Effect: General fund expenditures increase by \$475,000 in FY 2013, including combined one-time computer software and programming costs of \$362,400. Future year costs reflect annualization and growth in the registry. Revenues are not affected.

(in dollars)	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	475,000	160,400	194,700	227,100	259,700
Net Effect	(\$475,000)	(\$160,400)	(\$194,700)	(\$227,100)	(\$259,700)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: Any potential costs for local law enforcement units are offset by State grant reimbursement payments annually.

Small Business Effect: None.

Analysis

Bill Summary: The registry created under the bill must be established, operated, and maintained by the Department of Public Safety and Correctional Services (DPSCS), which is the agency that operates and maintains the State's sex offender registry.

A person required to register with the State Child Abuse Registry must register with a “supervising authority” prior to being released from a prison sentence or within three days of being granted probation before judgment, probation after judgment, a suspended sentence, or any other sentence that does not include a term of imprisonment. Registrants are required to notify the supervising authority of the new registry in writing within three days after a change in residency and/or a legal name. Registrants are required to provide the supervising authority of the registry with their full name, former name(s), aliases, address, Social Security number, date of birth, description of crime, date of conviction, the jurisdiction and name of court where convicted, copy of valid driver’s license or identification card, criminal history with dates of all arrests and convictions, status of all supervised and unsupervised releases, and any record of outstanding arrest warrants, along with the registrant’s dated signature. After initial registration, registrants are required to register in person with a local law enforcement unit every year and to provide an updated digital image at least once a year. The term of registration is 10 years or life, as specified. The term of registration begins on the last date of release from incarceration, or the date probation or a suspended sentence was granted.

The supervising authority, upon a registrant’s registration, is required to explain and provide written notice to the registrant of the requirements of registration; obtain a signed statement from the registrant acknowledging that the supervising authority explained the requirements and provided them with written notification of the requirement; obtain and forward an updated digital image of the registrant to DPSCS; and send the registration statement to DPSCS no later than three working days after a registration is completed.

DPSCS is required to post on the Internet a current listing of each registrant’s name, address, date of birth, most recent digital image, and the description of the crime that is the basis for the registration and reimburse local law enforcement units for any cost incurred processing registration statements and taking digital images.

The bill provides immunity to elected public officials, public employees, or a public unit from civil liability for damages arising out of any action relating to these provisions, unless it is proven that the official, employee, or unit acted with gross negligence or in bad faith.

The bill prohibits an individual from knowingly failing to register or knowingly providing false information of a material fact. A violator is guilty of a misdemeanor and subject to maximum penalties of imprisonment for three years and/or a fine of \$5,000. A second or subsequent offense is a felony that subjects the violator to maximum penalties of imprisonment for five years and/or a fine of \$10,000.

Current Law: A parent or other person who has permanent or temporary care, custody, or responsibility for the supervision of a minor may not cause abuse to the minor that

results in the death of the minor; or causes severe physical injury to the minor. A violator is guilty of the felony of first degree child abuse and on conviction is subject to a maximum imprisonment for 25 years or, if the violation results in the death of the victim, imprisonment not exceeding 30 years. A violator with a previous child abuse conviction is guilty of a felony and also subject to a maximum imprisonment for 25 years or, if the violation results in the death of the victim, imprisonment not exceeding 30 years.

A parent or other person who has permanent or temporary care, custody, or responsibility for the supervision of a minor may not cause abuse to the minor. A household member or family member may not cause abuse to a minor. A violator is guilty of the felony of second degree child abuse and is subject to a maximum imprisonment of 15 years.

A sentence imposed under these provisions may be separate from and consecutive to or concurrent with a sentence for any crime based on the act establishing the underlying violation.

“Abuse” means physical injury sustained by a minor as a result of cruel or inhumane treatment or as a result of a malicious act under circumstances that indicate that the minor’s health or welfare is harmed or threatened by the treatment or act.

“Family member” means a relative of a minor by blood, adoption, or marriage.

“Household member” means a person who lives with or is a regular presence in a home of a minor at the time of the alleged abuse.

“Severe physical injury” means brain injury or bleeding within the skull; starvation; or physical injury that creates a substantial risk of death or causes permanent or protracted serious disfigurement, loss of the function of any bodily member or organ, or impairment of the function of any bodily member or organ.

Background: The Department of Human Resources (DHR) and each local department maintain a central registry of reported child abuse and neglect cases. The Executive Director of the Social Services Administration within DHR must provide the Secretary of Health and Mental Hygiene with identifying information regarding individuals who have had their parental rights terminated and have been identified as responsible for abuse or neglect in a central registry.

Health practitioners, educators, human service workers, and police officers, are required to report both orally and in writing any suspected child abuse or neglect. Oral reports must be made immediately and written reports must be made within 48 hours of contact which disclose the suspected abuse or neglect. A report must include:

- the name and home address of the child and the parent or other individual responsible for the care of the child;
- the present location of the child;
- the age of the child;
- names and ages of other children in the home;
- the nature and extent of injuries or sexual abuse or neglect of the child;
- any information relayed by the individual making the report of previous possible physical or sexual abuse or neglect;
- information available to the individual reporting that might aid in establishing the cause of the injury or neglect;
- the identity of the individual or individuals responsible for abuse or neglect; and
- if reporting abuse or neglect of a child involving mental injury, a description of the substantial impairment of the child's mental or psychological ability to function that was observed and identified and why it is believed to be attributable to an act of maltreatment or omission of proper care and attention.

All reports of abuse must be made to the local departments of social services and the appropriate law enforcement agency. To initiate prompt handling of the report of suspected child abuse or neglect, employees of a local department of social services must make a report to the protective services unit.

State Fiscal Effect: A review of the Maryland Sentencing Guidelines database for fiscal 2011 indicates there were 59 individuals sentenced in the circuit courts for 65 counts of criminal child abuse. The Community Services Division of DPSCS indicates an intake of 135 cases attributable to criminal child abuse in fiscal 2011.

DPSCS reports that setting up a State Child Abuse Registry similar to the State's sex offender registry would require design and programming costs for the agency in fiscal 2013 of \$255,500 and would take about nine months to complete. DPSCS would also need one administrative officer to maintain and operate the registry as well as one additional part-time assistant Attorney General assigned only to issues connected with the new registry. In addition, based on the current \$200 per sex offender reimbursable funds for local law enforcement efforts associated with registration requirements, DPSCS estimates a cost of \$27,000 for every 135 registrants. Legislative Services assumes that, despite the nine-month electronic registry start-up delay cited above, the bill's registry requirements for DPSCS would be met manually until the electronic registry could be initiated.

The Administrative Office of the Courts (AOC) reports that the bill will require programming costs for system changes to automate registration requirements in the event the court is the supervising authority and to generate any needed forms at a cost of

\$106,900 in fiscal 2013 only. AOC also reports that the bill may increase caseload due to the new charges connected with registry related violations and, as a result, a corresponding increase in commissioner initial appearance hearings, bail reviews, and preliminary hearings held in the District Court, which could lead to an increase in the number of felony charges to be adjudicated in the circuit courts. Any such increases in caseloads can be handled with the existing budgeted resources of the courts.

Accordingly, assuming a registry intake of 135 persons per year, general fund expenditures increase by \$475,008 in fiscal 2013, which accounts for the bill's October 1, 2012 effective date. This estimate reflects the cost of hiring a part-time assistant Attorney General and administrative officer at DPSCS; one-time computer design and programming costs for DPSCS; one-time reprogramming and design costs for AOC to establish, maintain and operate the new ongoing State Child Abuse Registry. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses

Position(s)	1.5
Salaries and Fringe Benefits	\$78,261
One-time Computer Program Development	255,500
Grants to Local Law Enforcement	27,000
Other DPSCS Operating Expenses	7,347
AOC Reprogramming Costs	106,900
Total FY 2013 State Expenditures	\$475,008

Future year expenditures reflect full salaries with annual increases and employee turnover as well as annual increases in ongoing operating expenses.

Although the bill may also increase the workload of the Office of the Public Defender, it is assumed that any such increase can be handled with existing budgeted resources.

Local Fiscal Effect: Any costs incurred by local law enforcement units to comply with the bill's requirements would be offset, at least partly, by \$200 in reimbursements from DPSCS for each registrant. Montgomery and Prince George's counties report that the bill would have no fiscal impact on county operations. However, Prince George's County also indicates that the bill may present significant compliance issues for the public school system. Baltimore City reports that the bill may drive the need for additional personnel.

Additional Comments: DPSCS also notes that, if the bill's provisions are applied retroactively, costs for local law enforcement reimbursements would add an additional \$116,000 annually beginning in fiscal 2013.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Montgomery and Prince George's counties, Baltimore City, Office of the Attorney General, Commission on Criminal Sentencing Policy, Judiciary (Administrative Office of the Courts), Department of State Police, Office of the Public Defender, Department of Public Safety and Correctional Services, State's Attorneys' Association, Department of Legislative Services

Fiscal Note History: First Reader - February 21, 2012
ncs/hlb

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