

Department of Legislative Services
Maryland General Assembly
2012 Session

FISCAL AND POLICY NOTE

House Bill 391
Judiciary

(Delegate Dumais)

Criminal Procedure - Seizure and Forfeiture - Property Used in Human Trafficking

This bill (1) expands the crime of human trafficking by including specified activities; (2) authorizes State and local law enforcement agencies to seize property in connection with a human trafficking violation; (3) establishes procedures for the seizure, forfeiture, and sale of property related to human trafficking violations; and (4) establishes a special fund to benefit human trafficking victims, organizations, and law enforcement agencies that combat human trafficking.

The bill applies prospectively to offenses committed after the October 1, 2012 effective date.

Fiscal Summary

State Effect: Minimal special fund revenue increases for the Anti-Human Trafficking Fund from the proceeds of seized or forfeited property. Minimal special fund expenditures from grants made by the Anti-Human Trafficking Fund to organizations and law enforcement agencies. It is expected that the bill's provisions can be implemented with existing resources.

Local Effect: Minimal increase in local revenues for local law enforcement agencies that receive grants from the Anti-Human Trafficking Fund. Minimal increase in local expenditures to implement the provisions of the bill.

Small Business Effect: None.

Analysis

Bill Summary: The bill expands the crime of human trafficking by prohibiting a person from knowingly recruiting, harboring, transporting, providing, or obtaining a person for labor or services and subjecting the person to involuntary servitude or debt bondage through force, fraud, or coercion. The bill also authorizes State or local law enforcement to seize property in connection with a violation of the human trafficking law.

The bill establishes procedures for the seizure and forfeiture of property as a result of human trafficking violations, including the types of property that can be seized, the procedures and conditions that must be met for property to be seized, processing of seized property, and forfeiture of property by a defendant found guilty of a human trafficking violation.

The bill establishes the Anti-Human Trafficking Fund, which is administered by the Executive Director of the Governor's Office of Crime Control and Prevention (GOCCP). The purpose of the fund is to provide funding for human trafficking victims and law enforcement units and organizations that engage in activities to combat human trafficking. Fund revenues consist of proceeds from the sale of property seized or forfeited as a result of human trafficking violations, State budget appropriations, and money accepted from any other source for the benefit of the fund. At least 50% of the money in the fund must be given to nonprofit or private organizations that provide direct services to human trafficking victims; conduct human trafficking prevention programs; or conduct educational, training, or outreach programs on human trafficking. Expenditures from the fund may be made only in accordance with the State budget.

Current Law: Chapters 340 and 341 of 2007 renamed the crime of pandering to human trafficking.

Human Trafficking: Under the human trafficking prohibition, a person may not knowingly:

- take or cause another to be taken to any place for prostitution;
- place, cause to be placed, or harbor another in any place for prostitution;
- persuade, induce, or entice, or encourage another to be taken to or placed in any place for prostitution;
- receive consideration to procure for or place in a house of prostitution or elsewhere another with the intent of causing the other to engage in prostitution or assignation;
- engage in a device, scheme, or continuing course of conduct intended to cause another to believe that if the other did not take part in a sexually explicit

performance, the other or a third person would suffer physical restraint or serious harm; or

- destroy, conceal, remove, confiscate, or possess an actual or purported passport, immigration document, or government identification document of another while otherwise violating or attempting to commit these acts.

A person who commits human trafficking involving an adult victim is guilty of a misdemeanor and subject to maximum penalties of 10 years imprisonment and/or a fine of \$5,000. The misdemeanor offense of human trafficking is subject to prosecution at any time. The violator is subject to confinement in the penitentiary and may reserve a point or question for *in banc* review as provided by the Maryland Constitution.

A person who commits human trafficking involving a victim who is a minor is guilty of a felony and subject to maximum penalties of 25 years imprisonment and/or a fine of \$15,000. The felony human trafficking statute also prohibits a person from unlawfully taking or detaining another with the intent to use force, threat, or persuasion to compel the other to marry the person or a third person or perform a sexual act, sexual contact, or vaginal intercourse.

A person who knowingly aids, abets, or conspires in the violation of human trafficking laws or knowingly benefits financially from ventures or activities in violation of State human trafficking laws is subject to the same penalties imposed on a person who violated the applicable statute.

The District Court has concurrent jurisdiction with the circuit court over the crime of human trafficking.

Background: The U.S. State Department has estimated that approximately 600,000 to 800,000 victims are trafficked annually across international borders worldwide and approximately half of these victims are minors. According to the 2005 report, 80% of internationally trafficked victims are female and 70% are trafficked into the sex industry. The United Nations' International Labor Organization estimates that at least 12.3 million adults and children are in forced labor, bonded labor, and commercial sexual servitude. Of this group, 1.4 million are in commercial sexual servitude and 56% of all forced labor victims are women and girls.

According to the Maryland Sentencing Guidelines Database, eight people have been convicted of human trafficking in the State's circuit courts from fiscal 2001 through 2011. Three of these individuals were convicted in fiscal 2011.

Additional Information

Prior Introductions: SB 247 of 2011 passed the Senate with amendments and received a hearing in the House Judiciary Committee, but no further action was taken. HB 418 of 2011, its cross filed bill, received a hearing in the House Judiciary Committee, but no further action was taken. SB 463 of 2010 passed the Senate and received a hearing in the House Judiciary Committee, but no further action was taken. HB 514 of 2010 received a hearing in the House Judiciary Committee, but no further action was taken.

Cross File: SB 902 (Senator Raskin, *et al.*) - Judicial Proceedings.

Information Source(s): Baltimore City; Kent, Montgomery, and Worcester counties; Town of Bel Air; Town of Leonardtown; City of Salisbury; Commission on Criminal Sentencing Policy; Governor's Office of Crime Control and Prevention; Department of Natural Resources; Department of General Services; Department of Health and Mental Hygiene; Judiciary (Administrative Office of the Courts); Department of State Police; Maryland Department of Transportation; University System of Maryland; Department of Legislative Services

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