

Department of Legislative Services
Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE

Senate Bill 654

(Senator Simonaire)

Judicial Proceedings

Criminal Law - Safe Harbor for Minors Act of 2013

This bill establishes (1) 16 as the minimum age at which a person may be charged with specified prostitution offenses; (2) that if a minor who is 16 or 17 years old violates specified prohibitions on prostitution, the minor is presumed to have been coerced into committing the offense; and (3) that it is not a defense to a prosecution for human trafficking that a person consenting to any activity prohibited under the human trafficking statute could not be prosecuted due to the person's age.

Fiscal Summary

State Effect: Potential minimal reduction in general fund revenues and expenditures if the bill reduces the amount of monetary fines collected and the number of incarcerations for prostitution-related offenses.

Local Effect: Potential minimal reduction in local expenditures if the bill reduces the number of incarcerations for prostitution-related offenses. Revenues are not affected.

Small Business Effect: None.

Analysis

Current Law: A person may not knowingly: (1) engage in prostitution or assignation by any means; (2) keep, set up, occupy, maintain, or operate a building, structure, or conveyance for prostitution or assignation (that is, a meeting for illicit sex); (3) allow a building, structure, or conveyance owned or under the person's control to be used for prostitution or assignation; (4) allow or agree to allow a person into a building, structure,

or conveyance for prostitution or assignation; or (5) procure or solicit or offer to procure or solicit for prostitution or assignation.

Violators are guilty of a misdemeanor, punishable by imprisonment for up to one year and/or a \$500 maximum fine.

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.

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 courts over the crime of felony human trafficking.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Garrett, Harford, and Montgomery counties; Maryland State Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Department of Juvenile Services; Office of the Public Defender; Department of Public Safety and Correctional Services; Department of Legislative Services

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ncs/kdm

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