

Department of Legislative Services
Maryland General Assembly
2015 Session

FISCAL AND POLICY NOTE

House Bill 241
Judiciary

(Delegate Aumann, *et al.*)

Criminal Law - Human Trafficking - Adult Victim - Penalty

This bill reclassifies human trafficking of an adult from a misdemeanor to a felony and makes a conforming change pertaining to the statute of limitations for this offense.

In accordance with existing statute, the reclassification of this offense also applies to applicable offenses involving financially benefitting from, or aiding and abetting in, the human trafficking of an adult, as described below.

The bill retains existing penalties for these offenses.

Fiscal Summary

State Effect: The bill’s shifting of cases from the District Court to the circuit courts does not materially affect State finances, as discussed below.

Local Effect: The bill does not materially affect circuit court expenditures.

Small Business Effect: None.

Analysis

Current Law: The Criminal Law Article defines a “minor” as an individual younger than 18 years old.

Human Trafficking of an Adult (In General) – 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, 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.

In general, 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.

Human Trafficking of a Minor – 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. In a prosecution for human trafficking of a minor, it is not a defense that the defendant did not know the age of the victim. A felony may be prosecuted at any time.

Human Trafficking (Compelled Marriage or Performance of Specified Acts) – The felony human trafficking penalty also applies to a person who knowingly takes or detains another person with the intent to use force, threat, coercion, or fraud to compel the other person to marry the person or a third person or perform a sexual act, sexual contact, or vaginal intercourse.

Human Trafficking (Financial Benefit or Aiding and Abetting) – 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.

Background: According to the Maryland State Commission on Criminal Sentencing Policy, four individuals were sentenced for human trafficking of an adult in the State's circuit courts during fiscal 2014.

According to the Judiciary, there were 217 violations of the misdemeanor human trafficking statute (§ 11-303(a) of the Criminal Law Article) and 32 violations of the aiding and abetting statute involving an adult victim (§ 11-303(e) of the Criminal Law Article) in the District Court during fiscal 2014.

State Expenditures: As previously stated, there were approximately 250 misdemeanor human trafficking violations in the District Court during fiscal 2014. These cases would be shifted to the circuit courts under the provisions of the bill. Although the bill shifts cases from the District Court to the circuit courts, it is unlikely that this shift in cases materially affects District Court expenditures. The District Court typically hears misdemeanor cases and the circuit courts hear felony cases. However, in general, the District Court has concurrent jurisdiction with the circuit courts over misdemeanors for which the penalty may be confinement for three years or more or a fine of \$2,500 or more. Given the penalty for misdemeanor human trafficking, that offense is eligible for concurrent jurisdiction and some of these cases may already be filed in the circuit court under existing statute. Also, these cases are eligible for jury trials, which are only conducted in the circuit courts.

Because the bill retains existing penalties for misdemeanor human trafficking, State incarceration expenditures are not affected.

Local Expenditures: Although the bill shifts cases from the District Court to the circuit courts, for the reasons stated above, it is unlikely that the shift in cases materially affects circuit court caseloads.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland State Commission on Criminal Sentencing Policy, Governor's Office of Crime Control and Prevention, Judiciary (Administrative Office of the Courts), Department of State Police, Department of Public Safety and Correctional Services, Department of Legislative Services

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