

Department of Legislative Services  
Maryland General Assembly  
2016 Session

FISCAL AND POLICY NOTE  
Third Reader

House Bill 751  
Judiciary

(Delegate Sanchez, *et al.*)

Judicial Proceedings

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**Criminal Law - Sexual Offenses - Court-Ordered Services Provider**

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This bill prohibits a court-ordered services provider from engaging in sexual contact, vaginal intercourse, or a sexual act with an individual ordered to obtain services while the order is in effect. Violators are guilty of a misdemeanor and on conviction, subject to up to three years imprisonment and/or a \$3,000 fine.

The bill defines “court-ordered services provider” as a person who provides services to an individual who has been ordered to obtain those services by the court, the Division of Parole and Probation within the Department of Public Safety and Correctional Services (DPSCS), or the Department of Juvenile Services (DJS).

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**Fiscal Summary**

**State Effect:** Potential minimal increase in general fund revenues from fines imposed in the District Court. Potential minimal increase in general fund expenditures due to the bill’s incarceration penalty.

**Local Effect:** Potential minimal increase in local revenues from fines imposed in circuit court cases. Potential minimal increase in local expenditures due to the bill’s incarceration penalty.

**Small Business Effect:** None.

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**Analysis**

**Current Law:** A correctional employee, whether on a paid or volunteer basis, including an employee of DPSCS or a correctional facility and any employee of a contractor

providing goods or services to DPSCS or a correctional facility, is prohibited from engaging in sexual contact, vaginal intercourse, or a sexual act with an inmate. A person is prohibited from engaging in sexual contact, vaginal intercourse, or a sexual act with an individual confined in a child care institution licensed by DJS, a juvenile detention center, or facilities necessary to diagnose, care for, train, educate, and properly rehabilitate children who need these services, including (1) the Baltimore City Juvenile Justice Center; (2) the J. DeWeese Carter Center; (3) the Charles H. Hickey, Jr. School; (4) the Alfred D. Noyes Children's Center; (5) the Cheltenham Youth Facility; (6) the Victor Cullen Center; (7) the Thomas J. S. Waxter Children's Center; (8) the Lower Eastern Shore Children's Center; (9) the Western Maryland Children's Center; and (10) youth centers.

“Sexual contact” as it applies to prohibited contact as specified in the bill, means an intentional touching of the victim's or actor's genital, anal, or other intimate area for sexual arousal or gratification, or for the abuse of either party. “Sexual contact” does not include a common expression of familial or friendly affection or an act for an accepted medical purpose.

**State Revenues:** General fund revenues may increase minimally as a result of the bill's monetary penalty provision from cases heard in the District Court.

**State Expenditures:** General fund expenditures may increase minimally as a result of the bill's incarceration penalty due to more people being committed to State correctional facilities and increased payments to counties for reimbursement of inmate costs. The number of people convicted of this proposed crime is expected to be minimal.

Persons serving a sentence longer than 18 months are incarcerated in State correctional facilities. Currently, the average total cost per inmate, including overhead, is estimated at \$3,300 per month. This bill alone, however, should not create the need for additional beds, personnel, or facilities. Excluding overhead, the average cost of housing a new State inmate (including medical care and variable costs) is \$770 per month. Excluding medical care, the average variable costs total \$200 per month.

Persons serving a sentence of one year or less in a jurisdiction other than Baltimore City are sentenced to local detention facilities. For persons sentenced to a term of between 12 and 18 months, the sentencing judge has the discretion to order that the sentence be served at a local facility or a State correctional facility. Prior to fiscal 2010, the State reimbursed counties for part of their incarceration costs, on a per diem basis, after a person had served 90 days. Currently, the State provides assistance to the counties for locally sentenced inmates and for inmates who are sentenced to and awaiting transfer to the State correctional system. A \$45 per diem grant is provided to each county for each day between 12 and 18 months that a sentenced inmate is confined in a local detention center. Counties also receive an additional \$45 per day grant for inmates who have been sentenced to the custody

of the State but are confined in a local facility. The State does not pay for pretrial detention time in a local correctional facility. Persons sentenced in Baltimore City are generally incarcerated in State correctional facilities. The Baltimore Pretrial Complex, a State-operated facility, is used primarily for pretrial detentions.

**Local Revenues:** Revenues may increase minimally as a result of the bill's monetary penalty provision from cases heard in the circuit courts.

**Local Expenditures:** Expenditures may increase minimally as a result of the bill's incarceration penalty. Counties pay the full cost of incarceration for people in their facilities for the first 12 months of the sentence. A \$45 per diem State grant is provided to each county for each day between 12 and 18 months that a sentenced inmate is confined in a local detention center. Counties also receive an additional \$45 per day grant for inmates who have been sentenced to the custody of the State but are confined in a local facility. Per diem operating costs of local detention facilities have ranged from approximately \$60 to \$160 per inmate in recent years.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Maryland State Commission on Criminal Sentencing Policy, Judiciary (Administrative Office of the Courts), Office of the Public Defender, State's Attorneys' Association, Department of Juvenile Services, Department of Public Safety and Correctional Services, Department of Legislative Services

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Analysis by: Shirleen M. E. Pilgrim

Direct Inquiries to:  
(410) 946-5510  
(301) 970-5510