

Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 222

(Senator Lee, *et al.*)

Judicial Proceedings

Human Trafficking - Civil Actions - Statute of Limitations

This bill extends the statute of limitations for civil actions for damages that arise out of violations of the State's prohibition on human trafficking under § 11-303 of the Criminal Law Article. Under the bill, such an action must be filed within 10 years after the date the cause of action accrues.

The bill's provisions may not be construed retroactively to revive any action that was barred by the application of the statute of limitations applicable before the bill's October 1, 2017 effective date.

Fiscal Summary

State Effect: Any increase in District Court or appellate court caseloads can be handled with existing budgeted resources.

Local Effect: Any increase in circuit court caseloads can be handled with existing budgeted resources.

Small Business Effect: None.

Analysis

Current Law:

Statute of Limitations: In general, a person must file a civil cause of action within three years after the cause of action accrues. However, there are some statutory exceptions to this general rule. For instance, an action for assault, libel, or slander must be filed within

one year from the date it accrues. Also, a civil cause of action with a plaintiff who is a minor or who is mentally incompetent must be filed within the lesser of three years or the applicable period of limitations after the disability is removed. Thus, a plaintiff who was a minor at the time the statute of limitations began to accrue must file his/her cause of action before reaching age 21 if the cause of action is subject to the standard three-year statute of limitations.

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 imprisonment for up to 10 years and/or a maximum fine of \$5,000. While a misdemeanor generally carries a 1-year statute of limitations, 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 specified in the Maryland Constitution.

Human Trafficking of a Minor: A person who commits human trafficking involving a victim who is a minor (defined as an individual younger than age 18) is guilty of a felony and subject to imprisonment for up to 25 years and/or a maximum 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: Federal law (18 U.S.C. § 1595) authorizes an individual who is a victim of specified violations of federal prohibitions on peonage, slavery, and trafficking in persons to bring a civil action for damages and reasonable attorneys fees against the perpetrator or an individual who benefitted from the activity in an appropriate federal district court. The cause of action must be commenced within the later of 10 years after the cause of action arose or 10 years after the victim reaches age 18, if the victim was a minor at the time of the alleged offense. The cause of action must be stayed while any criminal action arising out of the same occurrence in which the claimant is the victim is pending, until final adjudication in the trial court.

The Judiciary advises that during fiscal 2016, there were 476 violations in the District Court and 256 violations in the circuit courts of § 11-303 of the Criminal Law Article.

Additional Information

Prior Introductions: None.

Cross File: HB 276 (Delegate Morales *et al.*) – Judiciary.

Information Source(s): Judiciary (Administrative Office of the Courts); U.S. Department of Justice; Department of Legislative Services

Fiscal Note History: First Reader - January 26, 2017
mm/kdm

Analysis by: Amy A. Devadas

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