

Department of Legislative Services
Maryland General Assembly
2018 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 861
Judiciary

(Delegate Kramer, *et al.*)

Nursing Homes and Assisted Living Facilities - Sex Offenders

This bill establishes various requirements regarding the admission of an identified registrant (*i.e.*, an individual required to register as a sex offender under the Criminal Procedure Article) by an assisted living program or nursing home. Such facilities are also prohibited from knowingly employing an identified sex offender.

Fiscal Summary

State Effect: The bill's requirements can be implemented with existing resources, as discussed below. Revenues are not affected.

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Bill Summary: A sex offender registrant who applies for admission to a nursing home or an assisted living program must notify the facility during the admission process that the registrant is a registered sex offender in Maryland or in any other state. If feasible, the notification must be provided before the admission of the registrant.

Registration Statements

For all sex offenders in the State, a registration statement must include, if the registrant resides or habitually lives in a nursing home or an assisted living program, the name of the nursing home or assisted living program.

Duties of Supervising Authority

When the supervising authority receives a registration statement indicating that the registrant resides or habitually lives in a nursing home or an assisted living program, the supervising authority must send a copy of the statement to the nursing home or assisted living program within three days.

Admission to a Facility

“Facility” means an assisted living program or a nursing home. During the admission process, a facility must check the sex offender registry on the website maintained by the Department of Public Safety and Correctional Services (DPSCS) to determine if the applicant is an identified registrant. A facility must also provide each prospective and current resident (or guardian of a resident) a written notice regarding the existence and availability of the sex offender registry on the DPSCS website.

Current Law/Background: Generally, a person convicted of a sex crime or other specified crime in Maryland, including kidnapping and false imprisonment under specified circumstances, is required to register with the State sex offender registry upon release from prison or release from court if the person did not receive a prison sentence. Offenders who are required to register in other states and who come to Maryland are required to register upon entering Maryland. Offenders from other states who may not be required to register in the home state are required to register in Maryland if the crime would have required registration in Maryland if committed in Maryland. The registry is maintained by DPSCS.

The federal Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act of 1994 incentivized all states to register sex offenders, sexually violent predators, and offenders who commit certain crimes against children. The federal government conditioned continued receipt of federal public safety monies upon compliance. The federal Sex Offender Registration and Notification Act (SORNA), enacted as Title I of the Adam Walsh Child Protection and Safety Act of 2006 (P.L. 109-248), also made federal funds contingent upon additional enactments by the states.

In 2010, Maryland’s sex offender registration laws were substantially revised to comply with SORNA and to increase penalties for certain sex offenses committed against minors. Among the enacted provisions, sexual offenders are now sorted into three separate tiers, replacing the four former categories of sexual offenders. A Tier I sex offender must register every six months for 15 years, a Tier II sex offender must register every six months for 25 years, and a Tier III sex offender must register every three months for life. If a Tier 1 sex offender meets specified requirements, the registration term may be reduced to 10 years.

For all sex offender registrants in the State, a registration statement must include numerous items of identifying information related to the registrant, as well as information about the intended residence, vehicles owned or used, fingerprints, and other elements, as specified. If the registrant is determined to be a sexually violent predator, the registration statement must also include the anticipated future residence, if known at the time of registration, and documentation of treatment received for a mental abnormality or personality disorder.

Within three days after obtaining a sex offender registration statement, the supervising authority must send a copy of the registration statement with the attached fingerprints, palm prints, and updated digital image of the registrant to the local law enforcement unit in each county where the registrant will reside or habitually live or where a registrant who is not a resident is a transient or will work or attend school.

A local law enforcement unit that receives a notice from a supervising authority must send a copy of the notice to the police department, if any, of a municipal corporation if the registrant (1) is to reside or habitually live in the municipal corporation after release; (2) escapes from a facility but resided or habitually lived in the municipal corporation before being committed to the custody of a supervising authority; or (3) is to change addresses to another place of residence within the municipal corporation.

Additional residency notification requirements include the following:

- As soon as possible, but not later than three working days after receipt of a registrant's change of residence or change in the county in which the registrant habitually lives, the local law enforcement unit must notify DPSCS of the change.
- As soon as possible, but not later than three working days after receipt of such a notice, the local law enforcement unit must give notice to DPSCS of the registrant's intent to change residence, a county in which the registrant habitually lives, vehicle or license plate information, electronic mail or Internet identifiers, or landline or cellular phone numbers.

A registrant may not knowingly fail to register, knowingly provide false information of a material fact required for the registry, knowingly fail to provide any information required to be included in a registration statement, or knowingly fail to provide written notice regarding change of residence, vehicle, legal change of name, or change in employment or enrollment at a higher education institution. A first offense is a misdemeanor subject to maximum penalties of three years imprisonment and/or a \$5,000 fine. A second or subsequent offense is a felony subject to maximum penalties of five years imprisonment and/or a \$10,000 fine.

State Fiscal Effect: The Maryland Department of Health advises that the bill's requirements can be handled with existing resources. Although DPSCS failed to provide a response in time for inclusion in this analysis, it is assumed that any required changes to the State sex offender registry and the work processes of a supervising authority are minimal and can, therefore, be accomplished with existing resources.

Additional Information

Prior Introductions: HB 1072 of 2014, a similar bill, received an unfavorable report from the House Health and Government Operations Committee.

Cross File: None.

Information Source(s): Maryland Department of Health; Department of Legislative Services

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mm/jc

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