

Department of Legislative Services  
Maryland General Assembly  
2020 Session

FISCAL AND POLICY NOTE  
First Reader

House Bill 1348  
Judiciary

(Delegate Arikan, *et al.*)

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**Criminal Procedure - Sex Offender Registration - Indecent Exposure by Inmate**

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This bill expands the definition of a “Tier I sex offender,” for the purposes of the sex offender registry, to include an inmate who has been convicted of the statutory crime of “indecent exposure in the presence of a correctional officer or authorized personnel” two or more times.

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**Fiscal Summary**

**State Effect:** The bill is not anticipated to materially affect State finances or operations, as discussed below.

**Local Effect:** The bill is not anticipated to materially affect local finances or operations.

**Small Business Effect:** None.

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**Analysis**

**Current Law:**

*Indecent Exposure by an Inmate*

Under § 8-803 of the Correctional Services Article, an inmate may not, with intent to annoy, abuse, torment, harass, or embarrass a correctional officer or authorized personnel, lewdly, lasciviously, and indecently expose private parts of the inmate’s body in the presence of the correctional officer or authorized personnel. A violator is guilty of a misdemeanor and is subject to maximum penalties of imprisonment for three years and/or a fine of \$1,000.

### *Indecent Exposure Under Common Law*

Indecent exposure is a common law offense. The meaning accorded to the offense is judicially determined and based on case law. It is regarded as a general intent crime that includes within its scope an innumerable variety of offenses, including acts that are reckless or negligent. It is not necessarily sexual in nature.

### *Sex Offender Registry*

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 the Department of Public Safety and Correctional Services (DPSCS).

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 I sex offender meets specified requirements, the registration term may be reduced to 10 years.

**State Fiscal Effect:** As of February 2020, DPSCS advises that there are seven inmates in the Division of Correction who were convicted of a single offense relating to § 8-803 of the Correctional Services Article. For context, the Division of Parole and Probation (DPP) advises that there are 756 individuals currently classified as Tier I sex offenders under supervision. DPP advises that it can implement the bill's changes with existing resources, assuming the increase in registrants resulting from the bill is not significant.

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## **Additional Information**

**Prior Introductions:** None.

**Designated Cross File:** None.

**Information Source(s):** Baltimore City; Montgomery and Prince George's counties; Maryland Association of Counties; City of Bowie; Maryland Municipal League; Maryland State Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Office of the Public Defender; Maryland State's Attorneys'

Association; Department of Public Safety and Correctional Services; Department of State Police; Department of Legislative Services

**Fiscal Note History:** First Reader - February 19, 2020  
mr/lgc

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Analysis by: Thomas S. Elder

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