

Department of Fiscal Services
Maryland General Assembly

FISCAL NOTE
Revised

Senate Bill 605 (Senator Stone, *et al.*)
Judicial Proceedings

Referred to Judiciary

Crimes and Punishments - Crimes Against Children and
Sex Offenders - Registration

This enrolled bill requires the Department of Public Safety and Correctional Services (DPSCS) to maintain a central registry of sexually violent predators and sexual offenders.

Fiscal Summary

State Effect: Significant effect on general fund expenditures and indeterminate effect on revenues from federal funding sources and monetary penalty provisions as discussed below.

Local Effect: Indeterminate, as discussed below. **This bill imposes a mandate on local governments, but also requires the State to reimburse local subdivisions for some expenses incurred.**

Small Business Effect: None. The bill would not directly affect small businesses.

Fiscal Analysis

Summary: This bill requires a supervising authority to notify specified agencies and individuals when a convicted “offender” is released or escapes. An offender is required to register with a supervising authority by a specified date. The Department of Public Safety and Correctional Services (DPSCS) is required to maintain a central registry of offenders, to send conviction data and fingerprints of offenders to the Federal Bureau of Investigation, and to send verification forms to each registered offender for a specified time. The bill provides for other specified registration and notification requirements relating to offenders. DPSCS is required to adopt implementary regulations.

The bill establishes procedures for determining whether a person is a sexually violent

predator. The Court of Appeals may adopt rules governing such determinations.

DPSCS must conduct certain public education and awareness programs. Except for registration requirements already applicable to child sexual offenders under existing law, the provisions of this bill are applied prospectively to offenses committed after the bill's effective date. Persons who fail to register are subject to maximum penalties of a fine of \$5,000 and/or imprisonment for three years.

The bill also requires the Department of Fiscal Services to report to the Senate Judicial Proceedings Committee and the House Judiciary Committee, by July 1, 1999, on: (1) the number of requests for registration statements received by DPSCS and local law enforcement agencies; and (2) the fiscal impact of complying with the requests.

Federal Revenues: Under the federal Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act, states must register offenders who are released after conviction of specified criminal offenses against a minor or sexually violent offenses. If offender registration is not in effect by federal fiscal year 1998, the State would lose 10% of its Byrne Memorial Grant funding. In fiscal 1998 the State expects to receive \$9.3 million in Byrne funding.

However, the Department of Public Safety and Correctional Services (DPSCS) believes that this bill would not bring Maryland into full compliance with the Wetterling Act and subsequent U.S. Department of Justice guidelines. DPSCS reports that this is due, in part, to the bill's deficiency in specifying all the crimes against minors covered by Wetterling. Although it is unclear as to what the federal reaction to this bill would actually be, if the State were to be found in noncompliance with Wetterling, and a waiver was not granted, 10% of Byrne funding (\$930,000) would be lost.

State Revenues: General fund revenues could increase under the bill's monetary penalty provision relating to failure to register for those cases heard in the District Court, depending upon the number of convictions and fines imposed.

State Expenditures: Essentially this bill applies existing registration requirements for child sexual offenders to all "offenders" and expands the responsibilities of DPSCS. The central registry for child sexual offenders now maintained by the Data Services Division must be expanded to handle a significantly broader central registry of offenders. The division must also send conviction data and fingerprints of offenders to the Federal Bureau of Investigation no later than three working days after receiving conviction data and fingerprints of offenders. Verification forms must be sent by DPSCS to each registered offender annually for ten years. The bill also extends registration provisions to offenders convicted in another state.

The bill shifts some responsibilities relating to registrations and notifications from local law enforcement agencies to supervising authorities and DPSCS. DPSCS must reimburse supervising authorities for the cost of processing registration statements, including the taking of fingerprints and photographs. Under the current child sexual offender registration provisions, that reimbursement is made to the local law enforcement agencies since they have the processing responsibilities.

General fund expenditures could increase by an estimated \$384,346 in fiscal 1998, accounting for a 90-day start-up delay. This estimate reflects the cost of establishing a "Registration and Notification Unit" within the Data Services Division and hiring one Administrative Officer, one Administrative Specialist, three Office Clerks, and one Data Device Operator to operate and maintain the unit. It includes salaries, fringe benefits, one-time start-up costs for data processing analysis and redesign, and ongoing operating expenses relating to ongoing registrations. The estimate does not include the cost of transmitting fingerprint and other data to the FBI since, to date, the FBI has not established specifications for such transmittals. The information and assumptions used in calculating the estimate are stated below:

- at present, only 55 child sexual offenders are registered under current provisions;
- the division anticipates an eventual annual release rate of 650 sexual offenders and an additional 570 child sexual offenders;
- reimbursements to supervising authorities would be \$10 for each of the approximately 1,200 eventual annual registrations anticipated;
- postage and related mailing expenses would eventually be required for an estimated 46,688 notifications annually;
- since completion of the data system redesign and reprogramming is not anticipated for completion until December of fiscal 1999, it is assumed that the full annualized costs for mailings and reimbursements will not be realized until that time; and
- the bill's provisions are applied prospectively only (excluding child sexual offenders), and the full effect of releases and registrations will not be felt until sometime after fiscal 1998.

Salaries and Fringe Benefits	\$124,885
Data System Redesign and Programming	170,048
Postage and Other Mailing Costs	15,250
Other Operating Expenses	<u>39,142</u>
Total FY 1998 State Expenditures	\$349,325

Future year expenditures reflect (1) full salaries with 3.5% annual increases and 3% employee turnover; and (2) 2% annual increases in ongoing operating expenses including the significant postage and mailing expenses relating to notifications. The costs for data system redesign and programming are one-time costs in fiscal 1998 only. Estimated out-year costs are: \$253,053 for fiscal 1999; \$260,963 for fiscal 2000; \$269,182 for fiscal 2001; and \$277,660 for fiscal 2002.

The Administrative Office of the Courts (AOC) reports that there were 646 offenders whose cases originated in the circuit courts and who were found guilty or granted probation before judgement (PBJ) for all sex offenses covered by the bill. Of that total, 206 received no term of imprisonment or were granted a PBJ. The data does not include victims' ages.

Since the courts are a supervising authority, both the District Court and the circuit courts have the responsibility to meet notification requirements relative to the release and registration of all offenders. In addition, the Court of Appeals is allowed to adopt rules governing the determination of sexual predators. Accordingly, this bill could result in additional workload for the courts and the clerk's offices. This could include the need for some additional personnel to meet notification requirements and registration requirements, as well as predator determination proceedings, in both the District Court and the circuit courts. These potential needs cannot be reliably quantified at this time.

It is assumed that notification requirements applicable to other State supervising authorities and relating to the offenders can be handled with the existing budgeted resources of each supervising authority.

General fund expenditures could also increase as a result of the bill's incarceration penalty for failure to register due to more people being committed to a Division of Correction (DOC) facility and increased payments to counties for reimbursement of inmate costs, depending upon the number of convictions and sentences imposed. Persons serving a sentence longer than one year are incarcerated in a DOC facility. In fiscal 1998 the average monthly cost per inmate is estimated at \$1,500.

The study by the Department of Fiscal Services would involve an indeterminate number of staff days and would include costs for travel, communications, and publishing. Existing staff

would have to be diverted from other duties involving services to the General Assembly to conduct such a study. Any costs, however, would be absorbed within Fiscal Services' fiscal 1998 and 1999 appropriations.

Local Effect: A limited survey of local jurisdictions provided a near consensus that although this bill could add to workload, its requirements can be handled with the existing budgeted resources of local law enforcement agencies. The one exception is Montgomery County which advises that this bill would require the county police to hire five additional Records Clerks and one evening shift Supervisor, to purchase a computer, and to incur mailing costs for a total additional initial expenditure of \$222,130. The county believes that these costs are necessary to maintain an around-the-clock record staff operation, seven days a week.

Although this bill expands the number of offenders who must be registered by supervising authorities, including local detention centers and the circuit courts, the Department of Fiscal Services advises that the additional expenditures forecast by Montgomery County are not credible since this bill shifts primary notification responsibilities from the local law enforcement agencies to DPSCS. The county has provided the identical fiscal estimate on other bills concerning sexual offenders regardless of their provisions relating to local law enforcement responsibilities.

However, since the bill would have a fiscal impact in the form of increased workload for the courts, as well as increased costs to the clerk's offices to address new notification and registration requirements, it is assumed that some additional costs may accrue to local jurisdictions as a result of this bill.

Information Source(s): Judiciary (Administrative Office of the Courts); Department of Public Safety and Correctional Services (Data Services Division, Parole Commission, Division of Parole and Probation, Patuxent Institution); Montgomery County; Allegany County; Prince George's County; Talbot County; Baltimore City; Department of Health and Mental Hygiene (Community and Public Health Administration); Department of Fiscal Services

Fiscal Note History: First Reader - February 25, 1997
lc Revised - Updated Information - February 26, 1997
Revised - Senate Third Reader - March 31, 1997
Revised - Enrolled Bill - May 6, 1997

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