

Department of Legislative Services
Maryland General Assembly
2000 Session

FISCAL NOTE

Senate Bill 454 (Senator Stone. *et al.*)

Judicial Proceedings

Criminal Law - Nudity and Sexual Displays - Minors

This bill prohibits the display, exhibition, or provision of “adult material” to minors. The bill prohibits the admission of minors to motion picture shows or other presentations containing adult material, and prohibits the display, for advertising purposes, of adult material to minors and the general public. Violators are subject to existing penalties for prohibitions relating to nudity and sexual displays.

The bill provides a defense to such violations if a person makes a reasonable, good faith effort to ascertain the age of a minor, and an honest mistake was made as to the underage status of the minor. The bill also makes specified changes to current law definitions relating to prohibitions against nudity and sexual displays, and provides a definition for the term “knowingly,” which is already in use.

Fiscal Summary

State Effect: Potential minimal increase in general fund revenues and expenditures due to applicable penalty provisions.

Local Effect: Potential minimal increase in expenditures due to applicable incarceration penalty provisions. Revenues would not be affected.

Small Business Effect: Minimal.

Analysis

Current Law: “Adult material” is not a defined term in use under provisions prohibiting nudity and sexual displays in the criminal code. “Knowingly” is a term already in use under existing provisions relating to nudity and sexual displays, but is not defined. The prohibition against providing a minor with sexual or sexually explicit material pertains only to the sale of such material.

The definitions of “sodomasochistic abuse,” “sexual conduct,” and “sexual excitement” do not include a reference to purpose, and “sexual conduct” does not include “lewd exhibition of the genitals.”

Violators of provisions in this subtitle are guilty of a misdemeanor and subject to maximum penalties of a fine of \$1,000 and/or imprisonment for six months. There is no statutory defense provided for violations of any provisions in this subtitle.

State Revenues: General fund revenues could increase minimally as a result of the applicable monetary penalty provision since these cases would be heard in the District Court.

State Expenditures: General fund expenditures could increase minimally as a result of the applicable incarceration penalty due to increased payments to counties for reimbursement of inmate costs and more people being committed to Division of Correction (DOC) facilities. The number of people convicted of this proposed crime is expected to be minimal.

Persons serving a sentence of one year or less in a jurisdiction other than Baltimore City are sentenced to a local detention facility. The State reimburses counties for part of their incarceration costs, on a per diem basis, after a person has served 90 days. State per diem reimbursements for fiscal 2001 are estimated to range from \$11 to \$54 per inmate depending upon the jurisdiction. Persons sentenced to such a term in Baltimore City are generally incarcerated in a DOC facility. Currently, the DOC average total cost per inmate, including overhead, is estimated at \$1,700 per month. This bill alone, however, should not create the need for additional beds, personnel, or facilities. The average variable cost of housing a new DOC inmate (food, medical care, etc.), excluding overhead, is \$260 per month.

Local Expenditures: Expenditures could increase as a result of the applicable incarceration penalty. Counties pay the full cost of incarceration for the first 90 days of the sentence, plus part of the per diem cost after 90 days. Per diem operating costs of local detention facilities are expected to range from \$22 to \$83 per inmate in fiscal 2001.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Public Safety and Correctional Services (Division of Correction), Department of Legislative Services

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