

**Department of Legislative Services**

Maryland General Assembly

2001 Session

**FISCAL NOTE**

Senate Bill 540

(Senator Stone)

Judicial Proceedings

---

**Criminal Procedure - Sexually Violent Predators - Sentencing**

---

This bill requires that a person who is determined by a court to be a sexually violent predator must be sentenced to life imprisonment without the possibility of parole.

---

**Fiscal Summary**

**State Effect:** Potential general fund expenditure increases for the Office of the Public Defender. Additional significant imprisonment costs for the Division of Correction associated with lengthier incarcerations would not be incurred until future years.

**Local Effect:** None.

**Small Business Effect:** None.

---

**Analysis**

**Current Law:** A sexually violent predator is a person who is convicted of a subsequent sexually violent offense and who is determined by the court to be at risk of committing another sexually violent offense. A sexually violent offense is defined as: first degree rape; second degree rape; first degree sex offense; second degree sex offense; attempted rape or sexual offense; or assault with intent to commit rape or sexual offense in the first or second degree.

Before or during sentencing of a defendant, a judge is required to determine, if requested by the State's Attorney, whether a defendant convicted of a subsequent sexually violent offense is a sexually violent predator. A determination of the status of sexually violent

predator is for purposes of registering a defendant in the State's sexual offender registry. In determining if a defendant is a sexually violent predator, the court must consider: (1) evidence that the court considers appropriate, including the presentencing investigation and the sexually violent offender's inmate record; (2) evidence introduced by the defendant; and (3) at the request of the State's Attorney, evidence that a victim of the sexually violent offense presents.

In order to request that a determination be made as to a defendant's sexually violent offender status, the State's Attorney must serve the defendant or the defendant's counsel with notice at least 30 days before trial.

The sentences for the crimes that predicate a finding that a person is a sexually violent offender range from life imprisonment without the possibility of parole to a term of imprisonment not exceeding 20 years.

**Background:** Maryland first enacted its version of sexual offender registration provisions (*Megan's Law*) during the 1995 session (Chapter 142 of 1995). To date, there are no sexual predators in the sexual offender registry. The Division of Correction believes that there are about 44 persons currently incarcerated as sexual predators serving a variety of terms as multiple offenders.

**State Expenditures:** General fund expenditures could eventually increase as a result of the bill's incarceration penalty due to more people being committed to Division of Correction (DOC) facilities for longer periods of time. The number of people that would be convicted under this bill's provisions is unknown. Under current law sentencing practices, a person sentenced to life without the possibility of parole may earn diminution credits and is expected to serve a term of about 540 months (45 years).

Persons serving a sentence longer than one year are incarcerated in DOC facilities. Currently, the 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. Excluding overhead, the average cost of housing a new DOC inmate (including medical care and variable costs) is \$288 per month. Because the bill only applies to offenses committed after the bill's October 1, 2001 effective date, any expenditure increase would not be felt until future years.

In addition, litigation of cases involving a penalty of life without parole are lengthy because few defendants will plead guilty to an offense carrying such a penalty and because sentencing proceedings frequently include defenses involving lay and expert testimony and other evidence that might mitigate against such a sentence. The Public

Defender estimates the cost of a fully litigated life without parole case at about \$25,000, including the costs of experts, records, and investigation.

---

### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

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

**Fiscal Note History:** First Reader – March 6, 2001  
ncs/jr

---

Analysis by: Guy G. Cherry

Direct Inquiries to:  
John Rixey, Coordinating Analyst  
(410) 946-5510  
(301) 970-5510