

Department of Legislative Services
Maryland General Assembly
2002 Session

FISCAL NOTE

Senate Bill 342 (Senators Green and Mitchell)
Judicial Proceedings

Crimes - Sexual Acts Between Employers or Supervisors and Minor Employees

This bill prohibits an employer or regular supervisor from engaging in a sexual act, sexual contact, or vaginal intercourse with an employee who is under 18 years of age if the employer or supervisor is at least 4 years older than the employee. A violator is guilty of a misdemeanor and subject to maximum penalties of a fine of \$1,000 and/or imprisonment for six months. The bill allows consecutive or concurrent sentencing for this offense with sentences for other crimes based on the act establishing this crime.

Fiscal Summary

State Effect: Potential minimal increase in general fund revenues and expenditures due to the bill's penalty provisions.

Local Effect: Potential minimal increase in expenditures due to the bill's incarceration penalty provision.

Small Business Effect: None.

Analysis

Bill Summary: The bill provides a certain spousal immunity. The bill also prohibits the introduction of evidence related to a victim's chastity, but allows the introduction of evidence of a specific instance of a victim's prior sexual conduct if certain conditions exist.

Current Law: Correctional facility and juvenile facility employees are prohibited from engaging in vaginal intercourse or a sexual act with an inmate. There is no general prohibition against consensual sex with any person 16 or older. The crime of fourth degree sexual offense prohibits a person from engaging in a sexual act or vaginal intercourse with a victim who is 14 or 15 years old and the defendant is at least 4 years older than the victim. Consensual sex with a person under the age of 14 is generally prohibited. Depending on the age of the victim and the circumstances of the event, a person unlawfully engaging in sexual acts with a minor could be subject to a charge of second degree rape; second, third, or fourth degree sexual offense; or child sexual abuse. Penalties range from a fine of up to \$1,000 and/or imprisonment for up to 1 year (for a misdemeanor fourth degree sexual offense) to a maximum imprisonment of 20 years (for the felony of second degree rape or child sexual abuse that results in the death of the victim).

State Revenues: General fund revenues could increase minimally as a result of the bill's monetary penalty provision because these cases would likely be heard in the District Court.

State Expenditures: General fund expenditures could increase minimally as a result of the bill's 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.

Generally, 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 2003 are estimated to range from \$10 to \$61 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 \$1,850 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 \$300 per month

Local Expenditures: Expenditures could increase as a result of the bill's 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 \$20 to \$84 per inmate in fiscal 2003

Additional Comments: SB 211 of 2002 seeks to prohibit an educator from engaging in a sexual act or vaginal intercourse with a minor who, at the time of the act, is a student enrolled at the school that employs the educator.

Additional Information

Prior Introductions: In 2000 a similar bill (SB 315) passed the Senate and received an unfavorable report from the House Judiciary Committee.

Cross File: None.

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

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Analysis by: Guy G. Cherry

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