

Department of Legislative Services
Maryland General Assembly
2002 Session

FISCAL NOTE

House Bill 1194

(Chairman, Judiciary Committee)

(Departmental – Public Safety and Correctional Services)

Judiciary

Judicial Proceedings

Criminal Law - Sexual Abuse of a Minor

This departmental bill establishes the crime of sexual abuse of a minor as a separate offense from “child abuse.” The bill provides that a parent or other person with permanent or temporary care or custody or responsibility for the supervision of a minor, or a household member or family member, may not cause sexual abuse to the minor. A violator is guilty of a felony and subject to maximum imprisonment of 15 years. A sentence imposed under these provisions may be separate from and consecutive to or concurrent with a sentence for: (1) any crime based on the act establishing a child sexual abuse violation; or (2) a “child abuse” violation separate from a child sexual abuse violation.

Fiscal Summary

State Effect: The bill’s changes to child abuse provisions do not alter currently prohibited conduct for purposes of sentencing or imprisonment. Any operational efficiencies that may accrue to the Department of Public Safety and Correctional Services (DPSCS) as a result of these changes are not expected to affect State finances or the budgetary needs of the agency.

Local Effect: None.

Small Business Effect: DPSCS has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment.

Analysis

Bill Summary: The bill applies the same current law definitions of “sexual abuse,” “family member,” and “household member” to the offense of child sexual abuse. In addition, the bill makes several conforming changes reflecting the separate offense of child sexual abuse to the Correctional Services Article, the Courts and Judicial Proceedings Article, the Criminal Procedure Article, the Education Article, the Estates and Trusts Article, and Article 88B – Department of State Police.

Current Law: For purposes of the statutory prohibition against child abuse, “abuse” is defined as: (1) the sustaining of physical injury by a child as a result of cruel or inhumane treatment or as a result of a malicious act by any parent or other person who has permanent or temporary care or custody or responsibility for supervision of a child, or by any household or family member, under circumstances that indicate that the child’s health or welfare is harmed or threatened thereby; or (2) sexual abuse of a child, whether physical injuries are sustained or not. “Sexual abuse” means any act of sexual molestation or exploitation of a child by a parent, household or family member, or other responsible person. Sexual abuse includes incest, rape, sodomy, an unnatural or perverted sexual practice, or a sexual offense in any degree.

Child abuse is a felony and subjects violators to a maximum incarceration penalty of 15 years. If the violation results in the death of the victim, the maximum penalty is 30 years.

“Child” means any individual under the age of 18 years.

Background: DPSCS and the Department of Health and Mental Hygiene appointed a task force to address criminal and mental health issues related to sexual offenders. The draft report of the Sex Offender Task Force proposed a series of recommendations to better protect the public from sexual offenders.

Child abuse is currently defined to include both physical and sexual abuse. The task force suggests that combining these two types of abuse into a single category creates several problems, including problems in data collection regarding this offense and problems for the Division of Correction with respect to its obligations in the area of sexual offender registration. The task force has recommended that child abuse be separated into two statutes, one for physical abuse and one for sexual abuse.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Public Safety and Correctional Services, Office of State's Attorneys' Coordinator, Frederick County, Department of Legislative Services

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