

Department of Legislative Services
Maryland General Assembly
2003 Session

FISCAL AND POLICY NOTE

House Bill 417
Judiciary

(Delegate Burns, *et al.*)

Third Degree Sexual Offense - Prior Conviction - Increased Penalty

This bill increases, from 10 to 20 years, the maximum incarceration penalty for third degree sexual offense when the current violation involves a minor if the person has previously been convicted of first or second degree rape or first, second, or third degree sexual offense involving a minor.

Fiscal Summary

State Effect: Any change in incarceration expenditures for the Division of Correction (DOC) resulting from this bill would not have a significant impact on State finances.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: Third degree sexual offense is a felony. A violator is subject to a maximum imprisonment penalty of ten years. The crime of third degree sexual offense provides that a person may not:

- engage in nonconsensual sexual contact with another, and: (1) employ or display a dangerous weapon, or a physical object that the victim reasonably believes is a dangerous weapon; (2) suffocate, strangle, disfigure, or inflict serious physical injury on the victim or another in the course of committing the crime; (3) threaten, or place the victim in fear, that the victim, or an individual known to the victim, will be imminently subject to death, suffocation, strangulation, disfigurement,

serious physical injury, or kidnapping; or (4) commit the crime while aided and abetted by another person;

- engage in sexual contact if the victim is mentally defective, mentally incapacitated, or is physically helpless, and the person performing the act knows or reasonably should know the victim to have such limitations;
- engage in sexual contact with another if the victim is under the age of 14 years, and the person performing the sexual contact is at least 4 years older than the victim;
- engage in a sexual act with another if the victim is 14 or 15 years old, and the person performing the sexual act is at least 21 years old; or
- engage in vaginal intercourse with another if the victim is 14 or 15 years old, and the person performing the act is at least 21 years old.

First and second degree rape and first and second degree sexual offenses are defined as crimes of violence which subject subsequent offenders to mandatory minimum penalties, the length depending on the number of prior convictions for crimes of violence.

State Expenditures: DOC reports that, for fiscal 2002, the intake for third degree sexual offense was 67 persons. The current data does not reveal how many of those offenders were repeat offenders or how many of the offenses involved a minor. The average sentence received by each such offender was 56 months. Therefore, the number of violators affected by the provisions of this bill is expected to be minimal.

Persons serving a sentence longer than 18 months are incarcerated in DOC facilities. Currently, the 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 \$350 per month. Excluding medical care, the average variable costs total \$120 per month.

Additional Information

Prior Introductions: None.

Cross File: None.

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

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