

**Department of Legislative Services**  
Maryland General Assembly  
2003 Session

**FISCAL AND POLICY NOTE**

Senate Bill 67

(Senator Brochin, *et al.*)

Judicial Proceedings

Judiciary

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**Criminal Procedure - Period of Probation After Judgment for Sexual Offenses  
Against Minors**

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This bill authorizes a court to order probation for a time longer than the sentence, but not longer than a period equal to the maximum period of confinement for the offense, when the defendant has been convicted of a certain sexual offense involving a victim who is a minor. Specifically, the bill's provisions are applied to the crimes of first or second degree rape; first, second, or third degree sexual offense; or sexual abuse of a minor. All of these crimes are felonies.

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**Fiscal Summary**

**State Effect:** Potential minimal general fund expenditure increases for the Division of Parole and Probation beginning in FY 2007. Revenues would not be affected.

**Local Effect:** None.

**Small Business Effect:** None.

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**Analysis**

**Current Law:** A circuit court or the District Court may: (1) impose a criminal sentence for a specified time and provide that a lesser time be served in confinement; (2) suspend the remainder of the sentence; and (3) order probation for a time longer than the sentence, not to exceed five years if ordered by a circuit court or three years if ordered by the District Court. The time of probation may be extended beyond these limits only for making restitution and only if the defendant consents in writing.

A minor generally means a person under the age of 18 years. A conviction for first degree rape or first degree sexual offense generally carries a maximum penalty of life imprisonment. A conviction for child kidnapping along with first degree rape or first degree sexual offense, where the victim is a child under the age of 16 years, carries a maximum penalty of life imprisonment without the possibility of parole. A conviction for second degree rape or second degree sexual offense carries a maximum penalty of 20 years imprisonment. A conviction for third degree sexual offense carries a maximum penalty of ten years imprisonment. A conviction for sexual abuse of a minor by a parent, custodian, or other household or family member carries a maximum penalty of 15 years imprisonment.

If a person who has a prior conviction from another incident of first or second degree rape or sexual offense is convicted of a subsequent offense of second degree rape or sexual offense, third degree sexual offense, or attempted second degree rape or sexual offense, the person is subject to imprisonment not exceeding life. A person is subject to incarceration for life without the possibility of parole if the person is found guilty of rape or sexual offense in the first degree after having been previously convicted of one of the same offenses.

In addition, sexual offenders are required to register with the Crimes Against Children and Sexual Offender Registry for a term of either ten years or life, depending on the offense. Lifetime registration is required for: (1) persons determined to be sexually violent predators; (2) persons convicted of first or second degree rape or first, second, or third degree sexual offense; and (3) all persons who have been convicted of a prior crime as a “child sexual offender,” an “offender,” or a “sexually violent offender.” A person is exempt from registration requirements if the underlying conviction requiring registration is reversed, vacated, or set aside, or if the registrant is pardoned for the underlying conviction.

**State Expenditures:** In fiscal 2002, the Division of Parole and Probation had an intake of 347 offenders convicted of the crimes covered under this bill. However, intake data for offenders convicted of the rape or sexual offense crimes covered under this bill do not indicate whether the victim was a minor. Intake data for offenders convicted of the offense of sexual abuse of a minor is currently not coded as such and is, therefore, also not available.

The cost to the Division of Parole and Probation for supervision of one offender is \$1,020 per year. For purposes of illustration only, if the crime for which half of the 347 offenders mentioned above had involved a minor, and if this bill resulted in one additional year added to their court ordered probation after judgment, State general fund

expenditures would increase by \$177,480 (174 x \$1,020). It is not known how frequently judges would impose longer periods of probation under the bill. Any fiscal impact would not be felt until at least fiscal 2007 for District Court cases and fiscal 2009 for circuit court cases.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** State's Attorneys' Association, Judiciary (Administrative Office of the Courts), Office of the Public Defender, Department of Public Safety and Correctional Services (Division of Parole and Probation, Division of Correction, Division of Pretrial Release and Services) Department of Legislative Services

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