

Department of Legislative Services
Maryland General Assembly
2004 Session

FISCAL AND POLICY NOTE
Revised

House Bill 1094
Judiciary

(Delegates Quinter and Mitchell)

Judicial Proceedings

Crimes - Fourth Degree Sexual Offense - Penalty for Subsequent Offender

This bill increases, from one to three years, the maximum incarceration penalty for a person convicted of fourth degree sexual offense if the person was previously convicted of a sexual crime or sexual abuse of a minor. The bill requires the State to comply with procedures set forth in the Maryland Rules for the indictment and trial of a subsequent offender when intending to prosecute a person under these provisions.

Fiscal Summary

State Effect: Potential minimal increase in general fund expenditures due to the bill's increase to an existing incarceration penalty provision. Revenues would not be affected.

Local Effect: Potential minimal decrease in expenditures due to the bill's increase to an existing incarceration penalty provision. Revenues would not be affected.

Small Business Effect: None.

Analysis

Current Law: The crime of fourth degree sexual offense prohibits a person from: (1) engaging in nonconsensual sexual contact with another; or (2) engaging in a sexual act or vaginal intercourse with a victim who is 14 or 15 years old and the defendant is at least four years older than the victim. A violator is guilty of a misdemeanor and subject to maximum penalties of imprisonment for one year and/or a fine of \$1,000.

Sexual offenders are required to register with the Crimes Against Children and Sexual Offender Registry for a term of either 10 years or life depending on the offense. An offender and a sexually violent offender must register annually. A sexually violent predator must register every 90 days. Under the State's sexual offender registration laws,

a State's Attorney may request that a sexual offender be designated a sexually violent predator.

Lifetime registration is required for: (1) sexually violent predators; (2) persons convicted of a sexually violent offense; (3) persons convicted of child abuse for commission of a sexual act involving penetration of a child under 12 years old; and (4) recidivist sexual offenders.

Background: Maryland first enacted sexual offender registration legislation under the federal Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Program during the 1995 session (Chapter 142 of 1995). Because the federal statute has been amended and because there have been updates and changes to federal regulations, State laws underwent revisions in 1997 (Chapter 754), 1998 (Chapters 473 and 521), 1999 (Chapter 317), and 2002 (Chapters 112, 194, and 266) to bring Maryland in compliance with Wetterling guidelines.

State Expenditures: General fund expenditures could increase minimally as a result of the bill's increased incarceration penalty due to more people being committed to Division of Correction (DOC) facilities. The number of people convicted of this crime is not expected to be affected by the bill.

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.

Persons serving a sentence of one year or less in a jurisdiction other than Baltimore City are sentenced to local detention facilities. For persons sentenced to a term of between 12 and 18 months, the sentencing judge has the discretion to order that the sentence be served at a local facility or DOC. 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 2005 are estimated to range from \$14 to \$58 per inmate depending upon the jurisdiction. Persons sentenced to such a term in Baltimore City are generally incarcerated in DOC facilities. The Baltimore City Detention Center, a State-operated facility, is used primarily for pretrial detentions.

Local Expenditures: Expenditures could decrease minimally as a result of more persons being remanded to DOC rather than a local correctional facility for having been convicted of the covered offense. Counties pay the full cost of incarceration for people in

their facilities 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 \$29 to \$97 per inmate in fiscal 2005.

Additional Information

Prior Introductions: None.

Cross File: None.

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

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