

Department of Legislative Services
 Maryland General Assembly
 2004 Session

FISCAL AND POLICY NOTE

House Bill 1209

(Delegates Owings and O'Donnell)

Judiciary

**Sex Offenders - In-Person Registration, Driver's License Notation, and
 Suspension for Noncompliance**

This bill makes certain in-person registration requirements now applicable to child sexual offenders applicable to all categories of sexual offenders and requires a notation of sexual offender status to be made on the driving licenses and identification cards of sexual offenders.

Fiscal Summary

State Effect: Transportation Trust Fund (TTF) expenditure increase of \$29,200 in FY 2005, not including potential one-time reprogramming and modification costs. Revenues would not be affected. Out-year costs reflect annualization and inflation.

(in dollars)	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Revenues	\$0	\$0	\$0	\$0	\$0
SF Expenditure	29,200	38,900	41,300	44,000	46,900
Net Effect	(\$29,200)	(\$38,900)	(\$41,300)	(\$44,000)	(\$46,900)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: Although the requirements of this bill could necessitate some operational adjustments for a local supervising authority, any associated costs such as for postage are assumed to be minimal and able to be handled with existing budgeted resources.

Small Business Effect: None.

Analysis

Bill Summary: This bill provides that all convicted sex offenders, rather than just child sex offenders, must register with the Crimes Against Children and Sexual Offender Registry in person. The bill eliminates annual mail registration by certain sex offenders.

A supervising authority is required to send a copy of a sex offender's registration statement to the Motor Vehicle Administration (MVA) within five days after receiving the statement for the purpose of noting the sex offender registration on the registrant's driver's license or identification card. The Department of Public Safety and Correctional Services (DPSCS) is required to notify the MVA of a registrant's failure to comply with specified requirements related to registration. Upon notice from DPSCS, the MVA must issue or reissue a driver's license or identification card to a registrant with a notation that the individual is a registered sex offender. The notation may only be removed upon a written notice from DPSCS that the notation is no longer required.

Upon notification from DPSCS that a registrant has knowingly failed to comply with specified requirements relating to registration, the MVA: (1) must suspend a registrant's license or privilege to drive in Maryland; and (2) may issue a work-restricted license or privilege to drive. Such an action by the MVA must be preceded by a written notice to the registrant of intent to take the action. The notice must include information relating to the registrant's right to contest the information upon which the pending action is based. Any such contest is limited to whether the MVA has mistaken the identity of the registrant or the individual whose privilege to drive has been suspended.

A registrant is allowed to appeal such a suspension. At a hearing for such an appeal, the issue is required to be limited to whether the MVA has mistaken the identity of the registrant or the individual whose privilege to drive has been suspended.

The MVA must reinstate a registrant's license if the MVA receives a court order to do so or if DPSCS notifies the MVA that the registrant is in compliance with specified requirements relating to registration.

The Maryland Department of Transportation, in cooperation with DPSCS and the Office of Administrative Hearings, must adopt implementary regulations for these provisions.

Current Law: Maryland has four categories of persons convicted of sexual offenses: (1) child sexual offender; (2) offender; (3) sexually violent offender; and (4) sexually violent predator.

“Sexually violent predator” means a person who: (1) is convicted of a sexually violent offense; and (2) has been determined to be at risk of committing another sexually violent offense. Also included under this definition are persons who are or were required to register every 90 days for life under the laws of another state or a federal, military, or Native American tribal jurisdiction.

“Sexually violent offender” means a person who: (1) has been convicted of a sexually violent offense; (2) has been convicted of an attempt to commit a sexually violent offense; or (3) has been convicted in another state or in a federal, military, or Native American tribal court of a crime that, if committed in this State, would constitute a sexually violent offense.

“Sexually violent offense” is defined as first or second degree rape; first, second, or third degree sexual offense; attempted rape or sexual offense; or assault with intent to commit first or second degree rape or first or second degree sexual offense as prohibited under Maryland’s criminal code on or before September 30, 1996. Also included under this definition are certain crimes that were committed in another state or in a federal, military, or Native American tribal jurisdiction.

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. A child sexual offender, 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.

The “supervising authority” for a sexual offender who must register means:

- the Secretary of Public Safety and Correctional Services, if the registrant is in the custody of a correctional facility operated by DPSCS, or if a registrant is either a resident or a nonresident convicted in a federal, military, or Native American tribal court and is not under supervision of another supervising authority;
- the administrator of a local correctional facility, if the registrant, including a participant in a home detention program, is in the custody of the local correctional facility;

- with an exception of circumstances involving the Division of Parole and Probation, the court that granted the probation or suspended sentence if the registrant is granted probation before judgment, probation after judgment, or a suspended sentence;
- the Director of the Patuxent Institution, if the registrant is in the custody of the Patuxent Institution;
- the Secretary of Health and Mental Hygiene, if the registrant is in the custody of a facility operated by that department;
- the court in which the registrant was convicted, if the registrant's sentence does not include a term of imprisonment;
- the Secretary of Public Safety and Correctional Services, if the registrant is in the State under terms and conditions of the applicable interstate compact governing out-of-state supervision;
- the Secretary of Public Safety and Correctional Services, if the registrant moves to Maryland and was convicted in another state of a crime that would require the registrant to register if the crime was committed in this State;
- the Secretary of Public Safety and Correctional Services, if the registrant moves to Maryland from another state where the registrant was required to register;
- the Secretary of Public Safety and Correctional Services, if the registrant is not a resident of this State; or
- the Director of Parole and Probation, if the registrant is under the supervision of the division.

A registration statement is required to include: (1) the registrant's name and address; (2) for certain registrants from another state, the registrant's place of employment; or for certain out-of-state registrants, the registrant's place of educational institution or school enrollment; (3) a description of the crime for which the registrant was convicted; (4) the date that the registrant was convicted; (5) the jurisdiction in which the registrant was convicted; (6) a list of any aliases that the registrant has used; (7) the registrant's Social Security number; and (8) the registrant's signature and date signed. If the registrant is a sexually violent predator, the registration statement must also include: (1) identifying factors including a physical description; (2) anticipated future residence if known at the time of registration; (3) offense history; and (4) documentation of treatment received for a mental abnormality or personality disorder.

A registrant may not knowingly: (1) fail to register; (2) fail to provide a written notice relating to changes of residence, school enrollment, or employment; or (3) provide false information of material fact. Violators are subject to maximum misdemeanor penalties of

incarceration for three years and/or a fine of \$5,000. The State may institute a prosecution for this misdemeanor at any time.

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.

As of March 3, 2004, there were 3,660 registered sex offenders in the State. In calendar 2003, there were 1,399 initial registrations.

State Expenditures: The MVA reports that this bill could result in reprogramming costs of about \$100,000 in fiscal 2005 for modifications by an external vendor to several programs and systems now in place. Such costs are based on estimates by the same vendor for similar modifications. However, the MVA also notes that, while it is possible that the modifications could conceivably be done internally with existing resources, such an approach would require changes in existing priorities and the potential delay of other projects.

The Department of Legislative Services advises that if other legislation is passed requiring computer reprogramming changes, economies of scale could be realized. This would reduce the costs associated with this bill and other legislation affecting the MVA.

In any event, TTF expenditures could increase by an estimated \$29,228 in fiscal 2005, which accounts for the bill's October 1, 2004 effective date. This estimate reflects the cost of hiring one customer agent to process the work associated with potential suspensions of licenses and to provide the required written notices to affected persons. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Salaries and Fringe Benefits	\$29,130
Other Operating Expenses	<u>98</u>
Total FY 2005 State Expenditures	\$29,228

Future year expenditures reflect: (1) full salaries with 4.6% annual increases and 3% employee turnover; and (2) 1% annual increases in ongoing operating expenses.

For other “corrected” licenses or identification cards, the MVA charges a fee of \$20. However, the MVA advises that a fee will not be charged to a sex offender registrant under this bill for noting the sex offender registration on the registrant’s driver’s license or identification card because current COMAR provisions do not extend the charging of the fee to such circumstances. Accordingly, revenues would not be affected.

The bill would also lead to an increase of hearings for the MVA and the Office of Administrative Hearings. Any associated costs could be handled with existing budgeted resources. The number of hearings is anticipated to be minimal.

The bill’s requirements extending to DPSCS and the operations of the offender registry could be handled with existing budgeted resources.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Office of Administrative Hearings, Maryland Department of Transportation (Motor Vehicle Administration), Department of Public Safety and Correctional Services, Department of Legislative Services

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ncs/jr

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