

Department of Legislative Services  
Maryland General Assembly  
2005 Session

FISCAL AND POLICY NOTE

House Bill 770 (Chairman, Judiciary Committee)  
(By Request – Departmental – Public Safety and Correctional Services)

Judiciary Judicial Proceedings

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**Criminal Procedure - Sex Offender Registration - Supervising Authority**

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This departmental bill adds, under sex offender registration provisions, the court as the “supervising authority” when a sentence for the qualifying offense is modified to time served.

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**Fiscal Summary**

**State Effect:** While it is not known how many sex offenders receive a sentence of time served annually, it is assumed that the bill’s provisions could be accommodated with the existing budgeted resources of the Judiciary. Revenues would not be affected.

**Local Effect:** None – see above.

**Small Business Effect:** The Department of Public Safety and Correctional Services (DPSCS) has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment.

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**Analysis**

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

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. The

registry is operated by the Sexual Offender Registry unit of DPSCS. 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.

**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). 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.

DPSCS believes that, without this change, sexual offenders receiving a modified sentence of time served might avoid registration requirements.

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### **Additional Information**

**Prior Introductions:** The provisions of this bill were included as a part of two prior year introductions. HB 150 of 2004 passed the House, had a hearing before the Judicial Proceedings Committee, and had no further action taken on it. HB 423 of 2003 received an unfavorable report from the Judiciary Committee.

**Cross File:** None.

**Information Source(s):** Judiciary (Administrative Office of the Courts), Department of Public Safety and Correctional Services, Department of Legislative Services

**Fiscal Note History:** First Reader - March 14, 2005  
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