

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE

House Bill 781 (Chairman, Judiciary Committee)
(By Request – Departmental – Public Safety and Correctional Services)

Judiciary

Criminal Procedure - Registration of Sex Offenders

This departmental bill transfers the annual re-registration of offenders and sexually violent offenders from the Department of Public Safety and Correctional Services (DPSCS) to designated local law enforcement units.

Fiscal Summary

State Effect: Annual decrease in mailing costs for DPSCS of about \$4,500.

Local Effect: While DPSCS believes this bill would only have minimal impact on local governments, affected local government entities disagree and assert that this bill would have discernable fiscal impact. **This bill imposes a mandate on a unit of local government.**

Small Business Effect: DPSCS has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment.

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.

“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. The registry is operated by the Sexual Offender Registry (SOR) 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.

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.

Local Fiscal Effect: As in 2003 and 2004, DPSCS advises that this bill would have minimal financial or operational impacts on affected units of local government. However, several local jurisdictions continue to disagree with this assertion:

- Cecil County reports that this bill would necessitate the hiring of one additional full-time deputy sheriff. The costs of such a hiring (including salary, fringe benefits, supplies, and an automobile) would total \$93,600 in fiscal 2006. From fiscal 2007 through 2010, these costs would grow from \$74,100 to \$85,800.
- Harford County reports that this bill would necessitate the hiring of one additional full-time deputy sheriff and one records clerk in fiscal 2006 at a total cost (including salary, fringe benefits, supplies, and an automobile) of about \$150,900. Out-year costs would reflect increases “in conjunction with the county pay and classification plan.”

However, Carroll County reports that these registrations are now handled by the State Police for the county. If this responsibility were to be transferred to the sheriff’s office, the county would experience some minimal operational changes and postage costs.

In 2004, Montgomery County reported that this change would necessitate the hiring of one program specialist at an annual cost of about \$51,000. However, this year, the county advises that the bill would have no fiscal impact.

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): Cecil County, Montgomery County, Harford County, Carroll County, Department of Public Safety and Correctional Services, Department of Legislative Services

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