

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 91

(Senator Brochin, *et al.*)

Judicial Proceedings

Judiciary

Criminal Procedure - Sexual Crimes Involving a Minor - Term of Probation

This bill authorizes a court to order probation for a time longer than a defendant's sentence for a defendant convicted of sexual abuse of a minor or, when the victim was a minor, of first or second degree rape or first, second, or third degree sexual offense, if the defendant consents in writing. The authorization is limited to 10 years if ordered in a circuit court or 6 years if ordered in the District Court.

Fiscal Summary

State Effect: While this bill could minimally add to caseloads for the Division of Parole and Probation, its requirements could be handled with existing budgeted resources.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: Chapter 287 of 2003 authorized a court to extend a convicted person's probation for an additional three years in the District Court or five years in a circuit court only for the purpose of making restitution. The Act allowed such a probation to be supervised or unsupervised.

Chapter 217 of 2004 increased, from one to three years, the maximum incarceration penalty for a person convicted of a fourth degree sexual offense if the person was previously convicted of a sexual crime or sexual abuse of a minor.

Chapter 285 of 2004 prohibits a person with intent to commit certain sexual offenses from knowingly “soliciting” a minor, or a law enforcement officer posing as a minor, to engage in activities that would be unlawful for the person to engage in under provisions relating to second degree rape or second or third degree sexual offense. For purposes of jurisdiction, a violation is considered to be committed in Maryland if the solicitation originated in Maryland or is received in the State. A violator is guilty of a felony and subject to maximum penalties of imprisonment for 10 years and/or a fine of \$25,000.

Background: In fiscal 2004, there were 313 offenders ordered to probation for first or second degree rape or first, second, or third degree sexual offense. The Division of Parole and Probation was unable to determine how many of those persons committed an offense against a minor.

Additional Information

Prior Introductions: HB 1104 and SB 121 of 2004, similar bills, failed. SB 121 passed the Senate and both received an unfavorable report from the House Judiciary Committee.

Cross File: HB 283 (Delegate Sophocleus, *et al.*) – Judiciary.

Information Source(s): Judiciary (Administrative Office of the Courts), Commission on Criminal Sentencing Policy, Department of Public Safety and Correctional Services (Division of Parole and Probation), Department of Legislative Services

Fiscal Note History: First Reader - January 28, 2005
mll/jr Revised - Enrolled Bill - May 3, 2005

Analysis by: Guy G. Cherry

Direct Inquiries to:
(410) 946-5510
(301) 970-5510