

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE

House Bill 1473
Judiciary

(Delegate Parrott, *et al.*)

Crimes - Trafficking of Persons and Involuntary Servitude - Penalties

This bill establishes the crimes of trafficking in persons and involuntary servitude and establishes criminal penalties.

Fiscal Summary

State Effect: Minimal increase in general fund revenues and expenditures due to the bill's penalty provisions.

Local Effect: Minimal increase in revenues and expenditures due to the bill's penalty provisions.

Small Business Effect: None.

Analysis

Bill Summary: The bill prohibits a person from knowingly subjecting or attempting to subject another person to perform forced labor or services. A violator of this provision is guilty of a misdemeanor and is subject to maximum penalties of 10 years imprisonment and/or a \$5,000 fine.

A person is prohibited from knowingly recruiting, enticing, harboring, transporting, providing, or obtaining a minor, or attempting to do the same, knowing that the minor will engage in commercial sexual activity, a sexually explicit performance, or the production of prohibited obscene matter. A person is prohibited from causing or attempting to cause a minor to engage in commercial sexual activity, a sexually explicit performance, or the production of prohibited obscene matter. A violator is guilty of a

misdemeanor and is subject to maximum penalties of 15 years imprisonment and/or a fine of \$10,000.

A person is prohibited from knowingly recruiting, enticing, harboring, transporting, providing, or obtaining another person, or attempting to do the same, intending or knowing that the other person will be required to perform forced labor or services. In addition, a person may not knowingly benefit financially or receive anything of value from participation in any of these prohibited acts. A violator is guilty of a misdemeanor and is subject to maximum penalties of 10 years imprisonment and/or a fine of \$5,000.

Current Law: Maryland statutes do not specifically address forced labor or involuntary servitude. However, these acts are prohibited by federal Constitutional and statutory provisions. Maryland statutes generally prohibit the practice of prostitution.

Background: The Thirteenth Amendment to the U.S. Constitution abolishes slavery and federal laws prohibit peonage (a system of forced labor based on the debts of workers), involuntary servitude, and forced labor. The penalties for violation of the federal laws include fines and up to 20 years imprisonment. Anyone who is convicted of obstruction, attempted obstruction, or prevention of the enforcement of any of these provisions is subject to the same penalties. If the violations result in the victim's death or include kidnapping, aggravated sexual abuse, or attempted murder, kidnapping, or aggravated sexual abuse, the violator is subject to a fine and/or any term of years of imprisonment up to life imprisonment.

In a 2004 Opinion of the Attorney General (*89 Opinions of the Attorney General 3*) the Attorney General discussed the situation of a live-in household worker who had been subjected to abuse due to the employer's control over the employee. The employee was forced to work seven days a week and was restricted to the home except when accompanied by the employer's family. The employee was denied phone calls and contact with friends and other visitors. The Attorney General advised, "an employer who forces an employee, by threats of force or legal coercion, to work seven days a week, to remain in the home, and to avoid all outside contacts may be subject to prosecution under federal statutes prohibiting peonage, involuntary servitude, and forced labor."

State Revenues: General fund revenues could increase minimally as a result of the bill's monetary penalty provisions from cases heard in the District Court.

State Expenditures: General fund expenditures could increase minimally as a result of the bill's incarceration penalties due to more people being committed to Division of Correction (DOC) facilities and increased payments to counties for reimbursement of inmate costs. The number of people convicted of this proposed crime is expected to be minimal.

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 \$310 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 2006 are estimated to range from \$17 to \$65 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 Revenues: Revenues could increase minimally as a result of the bill's monetary penalty provisions from cases heard in the circuit courts.

Local Expenditures: Expenditures could increase minimally as a result of the bill's incarceration penalties. 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 \$33 to \$119 per inmate in fiscal 2006.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts), Department of Public Safety and Correctional Services, *bartleby.com*, Office of the Attorney General, U.S. Code Annotated, Department of Legislative Services

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