

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE

Senate Bill 107

(Senator Kelley, *et al.*)

Judicial Proceedings

Judiciary

Criminal Procedure - Sex Offenses - Prohibition Against Probation Before
Judgment

This bill expands the scope of an existing prohibition against a court placing a defendant on probation before judgment where a defendant is convicted of specified sex offenses.

Fiscal Summary

State Effect: Although the bill could result in an increased number of incarcerations, it is not expected to have a significant impact on governmental operations or finances.

Local Effect: None – see above.

Small Business Effect: None.

Analysis

Bill Summary: If one of the following crimes involves a person under the age of 16, the court may not stay the entry of a judgment and place a defendant on probation:

- first degree attempted rape;
- second degree attempted rape;
- first degree attempted sexual offense;
- second degree attempted sexual offense;
- continuing rape or sexual abuse of a child; or
- sexual abuse of a minor.

Current Law: A person may not be placed on probation before judgment for any of the following offenses if the person has already been convicted of or placed on probation for one of these offenses within the preceding five years:

- causing another's death as a result of negligently driving, operating, or controlling a motor vehicle or vessel while:
 - under the influence of alcohol or under the influence of alcohol per se;
 - impaired by alcohol;
 - so far impaired by a drug, a combination of drugs, or a combination of drugs and alcohol that the person cannot drive or boat safely; or
 - impaired by a controlled dangerous substance; and
- causing a life-threatening injury to another as a result of negligently driving, operating, or controlling a motor vehicle or vessel while:
 - under the influence of alcohol or under the influence of alcohol per se;
 - impaired by alcohol;
 - so far impaired by a drug, a combination of drugs, or a combination of drugs and alcohol that the person cannot drive or boat safely; or
 - impaired by a controlled dangerous substance.

Additionally a person may not be placed on probation before judgment for:

- a second or subsequent controlled dangerous substance crime; or
- first or second degree rape, or first, second, or third degree sexual offense involving a person under the age of 16 years.

Additional Information

Prior Introductions: None.

Cross File: HB 895 (Delegate Quinter, *et al.*) – Judiciary.

Information Source(s): State's Attorneys' Association, Judiciary (Administrative Office of the Courts), Office of the Public Defender, Department of Public Safety and Correctional Services, Department of Legislative Services

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