

Department of Legislative Services
Maryland General Assembly
2006 Session

FISCAL AND POLICY NOTE

Senate Bill 210 (Senator Jacobs, *et al.*)
Judicial Proceedings

Child Sexual Offenders - Driver's License - Expiration and Renewal

This bill requires that a driver's license held by a child sexual offender expires annually on the licensee's date of birth. If a driver's license is issued to a child sexual offender between the offender's twentieth and twenty-first birthday, or renewed as a result of an expiration date coinciding with the offender's twentieth birthday, the license must expire 60 days after the offender's twenty-first birthday. In addition, a child sexual offender must renew a driver's license in person at the Motor Vehicle Administration (MVA).

Fiscal Summary

State Effect: Potential increase in Transportation Trust Fund expenditures in FY 2007 only for computer reprogramming costs. Revenues would not be affected.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: The Department of Public Safety and Correctional Services (DPSCS) must transmit to the MVA the name of each child sexual offender registered with the State sex offender registry. In addition, the supervising authority must advise child sexual offenders that their driver's license must be renewed annually and in person.

Current Law: Generally, a person convicted of a sex crime or other specified crime in Maryland, including kidnapping and false imprisonment, is required to register with the State sex offender registry upon release from prison or release from court if the person

did not receive a prison sentence. Offenders who are required to register in other states and who come to Maryland are required to register upon entering Maryland. Offenders from other states who may not be required to register in the home state are required to register in Maryland if the crime would have required registration in Maryland if committed in Maryland. Juveniles who are adjudicated as adults and convicted for crimes that require registration are included in the registry. Juveniles who are adjudicated delinquent for these crimes through the juvenile court system are not included in the registry.

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.

A child sexual offender is an individual who has been convicted in Maryland of the following offenses (or of comparable offenses if convicted in another state, federal, military, or Native American tribal court) that occurred on or after October 1, 1995 (or before October 1, 1995, if in the custody or under the supervision of a “supervising authority” on October 1, 2001):

- child sexual abuse;
- rape in the first degree of a child under age 15;
- rape in the second degree of a child under age 15;
- sex offense in the first degree of a child under age 15;
- sex offense in the second degree of a child under age 15;
- sex offense in the third degree of a child under age 15; and
- sex offense in the fourth degree of a child under age 15, with an order by the court to register.

“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 (SOR) for a term of either 10 years or life depending on the offense. The registry is operated by the 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.

During the 2005 session, several bills were passed that affected these provisions:

- Chapter 236 added, under sex offender registration provisions, the court as the “supervising authority” when a sentence for the qualifying offense is modified to time served.
- Chapter 577: (1) required annual photographing of child sexual offenders and sexually violent predators; and (2) replaced the quarterly mail-in registration process for sexually violent predators with an in-person registration process. Under this enactment, a child sexual offender, an offender, and a sexually violent offender are required to register on or before January 1 annually, and a sexually violent predator is required to register every 90 days on or before January 1, April 1, July 1, and October 1 annually.
- Chapter 578 made several substantive changes to these provisions, including: (1) providing for a graduated reentry release for registrants under the jurisdiction of the Department of Health and Mental Hygiene; (2) providing for a “transient” status of registrant; (3) adding “placement in home detention” to the definition of release; and (4) requiring notice of the location of employment for inmates placed on work release.

Background: Across the country, cases in which registered sex offenders have failed to update their addresses and have gone on to commit heinous sexual crimes have prompted lawmakers in several states to examine the ways of accounting for these offenders. In 2005, there were two notorious cases of child abduction, molestation, and murder by previously convicted child sex offenders – one in Idaho and the other in Florida. The

Florida case, involving a nine-year-old girl named Jessica Lunsford, has led that state to enact new legislation that:

- mandates a 25-year minimum mandatory term of imprisonment followed by lifetime supervision with electronic monitoring for persons convicted of lewd and lascivious molestation of a child under the age of 12 (there had been no lifetime supervision mandate);
- expands from 20 to 30 years the period of time before someone can petition to have the sexual predator designation removed;
- creates a new aggravating circumstance to qualify a sexual predator who commits a murder for a death sentence;
- retroactively requires the court to electronically monitor registered sex offenders and sexual predators whose victims were 15 years of age or younger and who violate their probation or community control and on whom the court imposes a subsequent term of probation and community control; and
- prospectively mandates the court to order electronic monitoring for persons placed on probation or community control who are convicted or previously convicted of various unlawful sex acts against a child 15 years of age or younger or are registered sexual predators.

It is also possible that the U. S. Congress will pass the Children's Safety Act of 2005 (HR 3132) during 2006. This federal legislation would, in part:

- require the U.S. Attorney General to (1) maintain a national sex offender registry at the Federal Bureau of Investigation; (2) establish a sex offender management assistance program; and (3) authorize sex offender apprehension grants;
- amend (1) the DNA Identification Act of 1994 to expand the scope of DNA samples to be included in the Combined DNA Index System; and (2) the DNA Analysis Backlog Elimination Act of 2000 to authorize the Attorney General to collect DNA samples from individuals who are arrested or detained under federal authority;
- increase penalties for violent crimes against persons under age 18, including death or life imprisonment, if the crime results in the death of a person under that age, and increase penalties for sexual offenses against children;
- require background checks and checks of national crime information databases and state child abuse registries before approval of foster or adoptive placements; and
- establish (1) procedures for the civil commitment of sexually dangerous persons; and (2) mandatory minimum penalties for child sex trafficking.

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. State sex offender registration laws have been amended and updated several times to remain in compliance with federal regulations and guidelines.

According to DPSCS, 4,335 offenders are currently included in the Maryland sex offender registry. About 500 to 600 new offenders are added on an annual basis. The majority of offenders in the registry are required to continue registering for life.

Over the summer of 2005, Governor Robert Ehrlich ordered a police check across the State on more than 400 sex offenders who reportedly had moved to Maryland but had not registered. The Associated Press reported that, under this Sex Offenders Compliance and Enforcement initiative, of the 403 sought, 69 sex offenders were found and ordered to register immediately; 130 were determined to be living outside Maryland; 104 were incarcerated in federal or state prisons; 5 were dead; 7 remained under investigation; and for another 88, there was no information to show they had moved to Maryland.

The Governor has proposed strengthening penalties and increasing oversight of offenders, including the use of global positioning satellite (GPS) anklets. At the same time, Maryland's Attorney General has unveiled a plan to require lifetime supervision for the most violent sexual offenders, strengthen community notification of sex offenders, and help build awareness of how people can protect themselves and their children.

In addition, during the 2004 session, a task force was established to study the use of global positioning systems and investigate the feasibility of outfitting sex offenders and other violent criminals with global positioning anklets, which would keep track of their whereabouts at all times. The final report by the task force (submitted on December 31, 2005) recommended that:

- GPS technology be utilized on persons that are a high risk to public safety and when location is of a primary concern;
- a pilot program and study, funded by State general funds and focused on the sex offender population, be conducted by DPSCS to determine the strengths and weaknesses of the emerging technology in this geographically diverse State, test recent risk assessment instruments used determine which offenders should be selected, and to determine overall outcomes such as recidivism;
- collaborative and cooperative procedures giving law enforcement access to GPS data and allowing input from law enforcement in GPS's use for particular individuals be a fundamental consideration in the design of any GPS monitoring strategy;

- GPS tracking should be prescribed by the Division of Parole and Probation when it is determined that it would be beneficial as part of a supervision modality using standardized risk assessment instruments;
- DPSCS monitor the Children's Safety Act of 2005 in the U.S. Congress.

The task force also recommends that the State institutionalize the task force to:

- monitor a pilot program;
- recommend other populations for GPS deployment;
- advise the Division of Parole and Probation on the pilot program;
- study promising and emerging practices;
- study GPS use with other populations, including domestic violence populations; and
- monitor the availability of federal funding.

State Revenues: The bill does not specify whether a child sexual offender will be charged the full \$30 renewal fee for a driver's license annually or whether the offender will be charged a prorated fee of \$6 annually (currently a driver's license is valid for five years). Assuming that the offender is charged a prorated renewal fee and that one-fifth of offenders' driver's licenses were set to expire each year between October 1, 2006 and September 30, 2011, revenues would not be affected.

State Expenditures: As of February 19, 2006, there were 3,101 registered child sexual offenders. Assuming that all 3,101 hold driver's licenses, the MVA advises that it would not need additional personnel to renew the driver's licenses in person, but warns the annual in-person renewal requirement could increase the wait time at branch offices. DPSCS expenditures would not be affected.

The MVA advises that computer programming changes would cost \$270,000. Legislative Services advises that, if other legislation is passed that affects the registration system, economies of scale could be realized. This would reduce the costs associated with this bill and other legislation affecting the MVA system.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Department of Transportation, Department of Public Safety and Correctional Services, Department of Legislative Services.

Fiscal Note History: First Reader - February 22, 2006
mam/ljm

Analysis by: Nora C. McArdle

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