

Department of Legislative Services
Maryland General Assembly
2006 Session

FISCAL AND POLICY NOTE

Senate Bill 21

(Senator Stone)

Judicial Proceedings

**Restrictions on Sex Offenders - Residential Proximity to and Entering School
and Park Property**

This bill prohibits a person required to register as a sex offender for life from: (1) residing in housing located within one mile of a public or nonpublic elementary or secondary school or a park where children regularly gather; or (2) entering a public or nonpublic elementary or secondary school property. A violator is guilty of a felony and subject to maximum penalties of imprisonment for five years and/or a fine of \$10,000.

Fiscal Summary

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

Local Effect: Potential minimal increase in local revenues and expenditures due to the bill's penalty provisions. While local jurisdictions would have some additional workloads relating to mapping and notification to offenders already living within the newly prohibited areas, it is assumed that such costs could be generally handled with existing budgeted resources.

Small Business Effect: None.

Analysis

Current Law: By common law, Maryland prohibits the solicitation of sex with a minor. Depending on the age of the victim and the circumstances of the event, a person engaging in sexual acts with a minor could be subject to a charge of second degree rape; second,

third, or fourth degree sexual offense; or child sexual abuse. A minor generally means a person under the age of 18 years.

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. A violator is guilty of a felony and subject to maximum penalties of imprisonment for 10 years and/or a fine of \$25,000.

Chapter 460 of 2005 prohibits a court from placing a defendant on probation before judgment for any of the following offenses if the victim is under the age of 16: first or second degree attempted rape; first or second degree attempted sexual offense; continuing rape or sexual abuse of a child; or sexual abuse of a minor.

Generally, a person convicted of a sex 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.

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.

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 unit of the Department of Public Safety and Correctional Services. 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.

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 458 of 2005 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.

Background: While it is unknown how many lifetime registrants currently reside within one mile of a school or park statewide, St. Mary's County provided the following information:

- There are 104 registered sexual offenders living in the county.
- Of that number, 25 are currently living within one mile of a school or park.
- Of the 25 living within one mile of a school or park, 17 are lifetime registrants.
- Of the 17 lifetime registrants living within one mile of the school or park, 3 do so because they are incarcerated at the county detention center, which is within one mile of the Leonard Hall School.

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

State Expenditures: General fund expenditures could increase minimally as a result of the bill's incarceration penalty 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 \$1,974 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 \$341 per month. Excluding medical care, the average variable costs total \$134 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 2007 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 provision from cases heard in the circuit courts.

Local Expenditures: Expenditures could increase minimally as a result of the bill's incarceration penalty. 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 2007.

Additional Information

Prior Introductions: None.

Cross File: HB 942 (Delegate Cryor, *et al.*) – Judiciary.

Information Source(s): St. Mary's County, Harford County, Montgomery County, Prince George's County, Department of Public Safety and Correctional Services, Department of Legislative Services

Fiscal Note History: First Reader - February 23, 2006
ncs/jr

Analysis by: Guy G. Cherry

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