

Department of Legislative Services
Maryland General Assembly
2006 Session

FISCAL AND POLICY NOTE
Revised

House Bill 353
Judiciary

(Charles County Delegation)

Judicial Proceedings

Teachers and School Administrators - Sexual Contact with Students - Prohibition

This bill provides that, with specified exceptions, a “person in a position of authority” may not engage in a sexual act, sexual contact, or vaginal intercourse with a minor who, at the time of the act, contact, or intercourse, is a student enrolled at a school where the person is employed. A violator is guilty of the misdemeanor of fourth degree sexual offense and subject to maximum penalties of imprisonment for one year and/or a fine of \$1,000.

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

Current Law: There is no general prohibition against consensual sex with any person 16 or older. Correctional facility and juvenile facility employees are prohibited from engaging in vaginal intercourse or a sexual act with an inmate. The crime of fourth degree sexual offense prohibits a person from engaging in a sexual act or vaginal intercourse with a victim who is 14 or 15 years old and the defendant is at least four years older than the victim. Depending on the age of the victim and the circumstances of the

event, a person unlawfully engaging in sexual acts with a minor could be subject to a charge of second degree rape or second, third, or fourth degree sexual offense. Penalties range from a fine of up to \$1,000 and/or imprisonment for up to one year (for a misdemeanor fourth degree sexual offense) to a maximum imprisonment of 20 years (for the felony of second degree rape).

Under the State's prohibition against sexual child abuse (applicable when the victim is under 18 years of age) by persons with custodial responsibilities or household or family members, a violator is guilty of a felony and subject to a maximum imprisonment of 25 years.

A person is prohibited from engaging in three or more acts in a continuing course of unlawful sexual conduct with a victim under 14 years of age. A violator is guilty of a felony and is subject to imprisonment not exceeding 30 years. A sentence imposed for this violation may be separate from and consecutive to or concurrent with a sentence for child abuse.

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 increased payments to counties for reimbursement of inmate costs and more people being committed to Division of Correction (DOC) facilities. The number of people convicted of this proposed crime is expected to be minimal. In fiscal 2005, DOC had an intake of 11 persons convicted of fourth degree sexual offense.

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 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: HB 379 of 2005, a similar bill, passed the House, was referred to the Senate Judicial Proceedings Committee, and had no further action taken on it.

Cross File: None.

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

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

Analysis by: Guy G. Cherry

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