

Department of Legislative Services  
Maryland General Assembly  
2007 Session

FISCAL AND POLICY NOTE

Senate Bill 171 (Senator Stone, *et al.*)  
Judicial Proceedings

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**Criminal Law - Abduction of Child Under 16 Years for Prostitution or Sex  
Crime - Penalty**

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This bill alters provisions relating to the crime of abducting a child under the age of 16 for purposes of prostitution or committing a sexual crime. The offense is changed from a misdemeanor to a felony and the maximum incarceration penalty for a violation is increased from 10 to 15 years. The maximum fine remains at \$5,000.

The bill also eliminates a provision subjecting a violator to § 5-106(b) of the Courts and Judicial Proceedings Article, whereby the State may institute a prosecution for the misdemeanor at any time.

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**Fiscal Summary**

**State Effect:** Minimal increase in general fund expenditures due to the bill's increased incarceration penalty provision that would likely not be felt until FY 2011 and beyond.

**Local Effect:** None.

**Small Business Effect:** None.

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**Analysis**

**Current Law:** For purposes of prostitution or committing sexual crimes, a person is prohibited from:

- persuading or enticing or aiding in the persuasion or enticement of an individual under 16 from the individual's home or from the custody of the parent or guardian; or
- knowingly secreting or harboring or aiding in secreting or harboring of an individual under 16 who has been persuaded or enticed in the manner described above.

A violator is guilty of a misdemeanor and subject to maximum penalties of imprisonment for 10 years and/or a fine of \$5,000. A violator is also subject to § 5-106(b) of the Courts and Judicial Proceedings Article, whereby the State may institute a prosecution for the misdemeanor at any time. Generally, a prosecution for a misdemeanor must be instituted within one year after the offense was committed.

**Background:** Changing crimes from misdemeanors to felonies means: (1) that such cases will likely be filed in the circuit courts rather than the District Court; and (2) some persons could eventually serve longer incarcerations due to enhanced penalty provisions, applicable to some offenses, for prior felony convictions. It is not known whether, under this bill's provisions, the prospect of a jury trial might spur more plea bargains and affect actual sentencing practices for this offense.

In any case, this bill would shift some unknown number of cases from the District Court to the circuit courts.

**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 \$2,300 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 \$465 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 2008 are estimated to range from \$21 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 \$42 to \$120 per inmate in fiscal 2008.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Judiciary (Administrative Office of the Courts), Commission on Criminal Sentencing Policy, Department of Public Safety and Correctional Services, Department of Legislative Services

**Fiscal Note History:** First Reader - March 4, 2007  
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