

Department of Legislative Services
Maryland General Assembly
2007 Session

FISCAL AND POLICY NOTE

House Bill 705
Judiciary

(Delegates Olszewski and Bromwell)

Registered Sex Offenders - Residence Adjacent to Locations Where Children Congregate - Prohibition

This bill prohibits a registered sex offender from knowingly residing within 2,000 feet of a “school,” “child care facility,” or “location where children congregate.” A violator is guilty of a felony and subject to imprisonment for not less than one year and not more than five years. The bill specifies how the distance restriction must be measured. An exception is provided when a residence was owned or occupied by the registrant prior to this prohibition.

Fiscal Summary

State Effect: Minimal. Enforcement would be handled with the existing budgeted resources of affected State agencies, including the Division of Parole and Probation. The new criminal penalty provisions of this bill are not expected to significantly affect State finances or operations.

Local Effect: Minimal. Enforcement would be handled with the existing budgeted resources of local law enforcement agencies and the continued availability of grants through the Sex Offender Compliance and Enforcement in Maryland (SOCEM) program. The new criminal penalty provisions of this bill are not expected to significantly affect local finances or operations.

Small Business Effect: None.

Analysis

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.

Sexual offenders are required to register, every 3 months or every 6 months, with the Crimes Against Children and Sexual Offender Registry for a term of either 10 years or life depending on the offense. Registration must include a photograph, which must be updated at least annually. The registry is operated by the Sexual Offender Registry unit of the Department of Public Safety and Correctional Services (DPSCS). 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 4 of the 2006 special session, enacted on June 22, 2006, increased the State's oversight of and penalties against sex offenders. Among its many provisions, the Act:

- subjects specified offenders to extended parole supervision for at least three years to a maximum of life, with the ability to petition for discharge after the minimum period; and
- requires the Parole Commission to enter into agreements with offenders that set specific conditions of parole supervision, which may include global positioning system monitoring, geographic restrictions on residence or presence, restrictions on employment or other activities, participation in sex offender treatment, a prohibition from using illicit drugs or abusing alcohol, an authorization for a parole agent to access the offender's personal computer, a consent to take polygraph exams, and a prohibition against contacting specific individuals or categories of individuals.

Chapter 4 also prohibits a registrant from knowingly entering on real property used for elementary or secondary education or on which a registered family day care home or a licensed child care home or institution is located. This prohibition does not apply to a registrant who enters real property where the registrant is a student or the registrant's child is a student or receives child care, if within the past year the registrant has been given the specific written permission to do so and the registrant promptly notifies an agent or employee of the covered property. It also does not apply for the purpose of voting at a school on an election day in the State if the registrant is properly registered to vote and the registrant's polling place is at the school.

Background: According to a recent report from Stateline.org, in 2001 Texas was the first state to establish child safety zones restricting where sex offenders can live. At least 21 states now have such zones. New or expanded restrictions have been proposed in 20 states this year. Several states, including Arkansas, Minnesota, and Washington, place residency restrictions on sexually violent predators and offenders who are high-risk.

Many locally adopted ordinances exceed the state standards. Taylor Falls, Minnesota, for example, passed an ordinance barring all sex offenders classified as high-risk from living within the city limits. In New Jersey, which has no statewide residency rules, 113 cities have set restrictions that make it nearly impossible for sex offenders to live within some city limits. Some city and state laws contain exceptions to residency restrictions, such as if the offender had established a permanent residence (through deed or title) prior to the legislation being enacted.

California's law, adopted by voters in November, prohibits registered sex offenders from living within 2,000 feet of schools or parks. Approved by 70% of voters, this ballot initiative would make it impossible for sex offenders to live in most of Los Angeles, San Francisco, and other urban districts in the state. Challenges against sex offender residential restrictions in California, Illinois, Minnesota, and New Jersey are pending in state courts. Restrictions enacted by Georgia in July 2006 face a federal class-action lawsuit. The so-called "distance marker" restrictions in Iowa and Ohio have withstood challenges in federal courts.

Organized through the Governor's Office of Crime Control and Prevention (GOCCP), SOCEM program provides resources to all 24 designated State law enforcement agencies responsible for the registration and re-registration of sex offenders in the offender registry. Current grant funding through GOCCP assists State and local law enforcement agencies in the enforcement of registration and compliance requirements. The Governor's fiscal 2008 budget includes \$850,000 in general funds for the SOCEM grant program.

The SOCEM webpage lists the following SOCEM partners:

- GOCCP;
- Department of State Police;
- DPSCS;
- Division of Parole & Probation;
- The Sex Offender Registry;
- Department of Transportation, Motor Vehicle Administration;
- Department of Human Resources;
- Department of Budget & Management;
- Maryland Municipal League;
- Maryland Association of Counties;
- Maryland Sheriff's Association;
- Maryland Chiefs of Police Association;
- Local Law Enforcement Agencies;
- CTIA - The Wireless Association;
- Towson University; and
- Maryland Children's Alliance, Inc.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Montgomery County, Caroline County, Howard County, Judiciary (Administrative Office of the Courts), Department of Natural Resources, Maryland State Department of Education, Department of Public Safety and Correctional Services, Department of Legislative Services

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