

Department of Legislative Services
Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE

Senate Bill 24

(Senator Simonaire, *et al.*)

Judicial Proceedings

Sex Offender Registration and Notification Act Task Force

This bill establishes a Sex Offender Registration and Notification Act Task Force. The bill provides for the membership and duties of the task force, and authorizes expense reimbursements for members.

The task force is required to: (1) study and make recommendations on State compliance with the federal Act's guidelines; (2) identify any federal noncompliance issues for Maryland; (3) review, analyze, and make recommendations relating to the State's enforcement of State and federal sex offender laws; and (4) report its findings and recommendations to the General Assembly by December 31, 2008. Staffing to the task force will be provided by the Department of Legislative Services.

This bill is effective July 1, 2008 and terminates December 31, 2008.

Fiscal Summary

State Effect: Any expense reimbursements for the task force members and staffing costs for DLS are assumed to be minimal and absorbable within existing budgeted resources.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law and Background: Following several high-profile sexual assault cases, far-reaching State and federal legislation has been enacted to more strongly punish and more closely monitor sex offenders. The federal Sex Offender Registration and Notification Act (SORNA), which is Title I of the Adam Walsh Child Protection and Safety Act of 2006 (Public Law 248-109), calls for conformity by the states with various aspects of sex offender registration provisions, including registration by specified juvenile offenders, specific information to be collected from registrants, verification, duration of registration, access to and sharing of information, and penalties for failure to register. The U.S. Attorney General is required by the Act to issue guidelines and regulations to interpret and implement the legislation. Proposed guidelines were published on May 30, 2007. The period for public comment on the proposed guidelines ended on August 1, 2007. Final guidelines have not yet been published. Under SORNA, July 27, 2009 is the deadline for substantial implementation of SORNA's requirements for all registration jurisdictions.

Until the final guidelines/regulations are issued, definitive State action necessary for compliance (including statutory changes) is not entirely clear. However, under the proposed guidelines, it appears that the following modifications to current State law, among others, would be needed to meet the new federal standards.

Length of Registration

The federal law divides the classes of sex offenders into a three-tiered system. Under that system, registration is for 15 years, 25 years, or life depending on whether the offense is classified as Tier I, Tier II, or Tier III, respectively. Under current State law, Maryland classifies its sexual offenders into four classifications, and registration is for 10 years or life, depending on the offense. Additionally, under current Maryland law, most registrants are required to re-register every six months, while Tier I offenders in the federal system must re-register quarterly. It may be necessary to completely revamp Maryland's classification system to align it more closely with the federal requirements.

Registration Deadlines

The federal Act requires the offender to appear in person in at least one required jurisdiction not later than three business days after each change of (1) name; (2) residence; (3) employment; or (4) student status, and inform the jurisdiction of all changes in information required in the registry. Current Maryland law allows written notice within five days after the change occurs. The federal law also requires that initial registration must occur before release, while Maryland law allows registration "on or before" the date of release.

Application of Registration Requirement to Juvenile Offenders

The federal law applies to juvenile offenders adjudicated delinquent if the offender is age 14 or older at the time of the offense and the offense adjudicated was comparable to or more severe than aggravated sexual abuse or was an attempt or conspiracy to commit such an offense. Under current State law, registration requirements only apply to juvenile offenders who have been tried as adults.

Registry Information

The federal Act requires that the registry contain extensive information for each offender, including palm prints, Internet identifiers and addresses, travel and immigration documents, professional licensing information, vehicle information, and a physical description of the offender. This information is not required to be included in the registry under current Maryland law.

Homeless Persons

Because the Act defines the term “resides” to mean “the location of the individual’s home or other place where the individual habitually lives,” the residency registration requirements are extended to circumstances where the offender is homeless, living on the street, or moving from shelter to shelter, or when the place of residence itself moves from place to place, such as a mobile home, trailer, or houseboat. Accordingly, sex offenders must register (1) in any jurisdiction in which they have a home; and (2) in any jurisdiction in which they habitually live (even if they have no home or fixed address in the jurisdiction, or no home anywhere). Maryland law does not currently account for the homeless offender population.

Retroactivity

The Act’s provisions were made retroactive. It applies to all sexual offenders, including those offenders convicted prior to the enactment of SORNA (July 27, 2006) or prior to a particular jurisdictions’ implementation of the SORNA requirements. Jurisdictions are required to register pre-SORNA convicted sex offenders in conformity with the SORNA standard if they are currently registered, under supervision or incarcerated, or if the sex offender reenters the system because of a new conviction (whether or not the new crime is a sex offense). Generally, Maryland offenders need not register if their offense occurred prior to October 1, 1995. Exceptions are made for individuals who were under the supervision of the criminal justice system on October 1, 2001, or have out-of-state registration responsibilities.

Additional Information

Prior Introductions: None.

Cross File: HB 61 (Delegate Stifler) – Judiciary.

Information Source(s): Department of Legislative Services

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mll/jr

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