

Department of Legislative Services
Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE

House Bill 504
Judiciary

(Delegate McConkey, *et al.*)

Criminal Procedure - Sexual Offender Registry - Registrant's Statement

This bill allows a sex offender registrant to add to the registration statement a personal statement describing the facts of the crime, conviction, and punishment for which the registrant is listed.

Fiscal Summary

State Effect: General fund expenditures increase by \$41,900 in FY 2010. Future year expenditures reflect annualization and inflation. Revenues are not affected.

| (in dollars) | FY 2010 | FY 2011 | FY 2012 | FY 2013 | FY 2014 |
|----------------|------------|------------|------------|------------|------------|
| Revenues | \$0 | \$0 | \$0 | \$0 | \$0 |
| GF Expenditure | 41,900 | 48,200 | 50,700 | 53,300 | 56,000 |
| Net Effect | (\$41,900) | (\$48,200) | (\$50,700) | (\$53,300) | (\$56,000) |

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: The bill allows a sex offender registrant to add to the registration statement a personal statement, not exceeding 100 words, that describes the facts of the crime, conviction, and punishment for which the registrant is listed, including:

- the number of victims and the age and sex of each victim;

- a general description of any relationship between the registrant and each victim; and
- the duration and completion of punishment and attempts at rehabilitation, including sentence, parole, community service, or other rehabilitative program.

A registrant's personal statement may not include an exculpatory statement, lewd or profane language, or facts that could identify, directly or indirectly, any victim or witness related to the registrant's conviction. Prior to publication, a registrant's personal statement must be approved for conformity with these provisions by the prosecuting attorney, as specified.

The bill also alters the current law authorization for the Department of Public Safety and Correctional Services (DPSCS) to post a registrant's information on the Internet to include the posting of a registrant's personal statement.

Current Law: Under Maryland law, a registration statement for a sex offender must include:

- the registrant's full name, including any suffix, and address;
- under certain circumstances, the registrant's place of employment or the registrant's place of educational institution or school enrollment;
- for a registrant enrolled, or expecting to enroll, in an institution of higher education in the State as a full-time or part-time student, the name and address of the institution of higher education;
- for a registrant who carries on employment, or expects to carry on employment, at an institution of higher education in the State, the name and address of the institution of higher education;
- a description of the crime for which the registrant was convicted;
- the date that the registrant was convicted;
- the jurisdiction in which the registrant was convicted;
- a list of any aliases, former names, nicknames, electronic mail addresses, computer log-in or screen names or identities, instant-messaging identities, and electronic chat room identities used by the registrant;
- the registrant's Social Security number;
- any other name by which the registrant has been legally known;
- a copy of the registrant's valid driver's license or identification card and the license plate number and description of any vehicle owned or regularly operated by the registrant; and

- the registrant's signature and date signed.

If the registrant is a sexually violent predator, the registration statement must also include: (1) identifying factors, including a physical description; (2) anticipated future residence, if known at the time of registration; (3) offense history; and (4) documentation of treatment received for a mental abnormality or personality disorder.

Sexual offenders are required to register, every three or six 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. 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 sexually violent predators; persons convicted of a sexually violent offense; persons convicted of child abuse for commission of a sexual act involving penetration of a child under age 12; and recidivist sexual offenders.

Background: The federal Sex Offender Registration and Notification Act (SORNA), enacted as Title I of the Adam Walsh Child Protection and Safety Act of 2006 (P.L. 109-248), requires conformity by the states with various aspects of sex offender registration provisions, including registration of specified juvenile offenders, collection of specific information from registrants, verification, duration of registration, access to and sharing of information, and penalties for failure to register. The final guidelines/regulations were issued on July 2, 2008. July 27, 2009, is the deadline for substantial implementation of SORNA's requirements by all jurisdictions.

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. SORNA does not provide for the inclusion of a personal statement from a registrant.

Failure to fully comply with SORNA puts a state at risk to lose 10% of Byrne Justice Assistance grants, which all states use to pay for drug task forces, anti-gang units, police overtime, and other law enforcement activities. Under the federal American Recovery and Reinvestment Act of 2009 (the federal "Stimulus Bill"), the Byrne formula grants program has been reauthorized from fiscal 2009 through 2011. Maryland will receive an estimated \$24.7 million in fiscal 2010 and \$18.5 million in fiscal 2011. Accordingly, if found in non-compliance - and without issuance of a waiver - the State could lose about \$2.5 million in Byrne funds in fiscal 2010 (and \$1.9 million in fiscal 2011).

State Expenditures: General fund expenditures increase by \$41,929 in fiscal 2010, which accounts for the bill's October 1, 2009 effective date. This estimate reflects the cost of hiring one office secretary to coordinate activity with State's Attorneys offices and trial courts in 24 jurisdictions (and other states) on information relating to the conformity and accuracy of personal statements for inclusion in the registry. It includes salaries, fringe benefits, one-time re-programming costs, and ongoing operating expenses.

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|---|-----------------|
| Salaries and Fringe Benefits | \$35,098 |
| Web-based Re-programming Costs | 6,448 |
| Other Operating Expenses | <u>383</u> |
| Total FY 2010 State Expenditures | \$41,929 |

Future year expenditures reflect full salaries with 4.4% annual increases and 3% employee turnover; and 1% annual increases in ongoing operating expenses.

Additional Information

Prior Introductions: None.

Cross File: None.

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

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ncs/hlb

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