

Department of Legislative Services  
Maryland General Assembly  
2009 Session

FISCAL AND POLICY NOTE

House Bill 35  
Judiciary

(Delegate Serafini)

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Criminal Law - Buying of Minors - Prohibition

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This bill prohibits a person from buying or offering to buy a minor for money, property, or anything else of value. A violator is subject to existing misdemeanor penalties applicable to the prohibition against the sale, barter, or trade of a minor: maximum imprisonment for five years and/or a maximum fine of \$10,000. The State may institute a prosecution for this misdemeanor at any time. A person convicted of this offense is subject to confinement in the penitentiary and may reserve a point or question for *in banc* review as provided by the Maryland Constitution.

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Fiscal Summary

**State Effect:** Minimal increase in general fund revenues and expenditures due to the bill's penalty provisions.

**Local Effect:** Minimal increase in local revenues and expenditures due to the bill's penalty provisions.

**Small Business Effect:** None.

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Analysis

**Current Law:** A person may not sell, barter, or trade a minor (or offer to engage in such commerce) for money, property, or anything else of value. A violator is guilty of a misdemeanor and subject to maximum penalties of imprisonment for five years and/or a fine of \$10,000. The State may institute a prosecution for this misdemeanor offense at any time. A person convicted of this offense is subject to confinement in the penitentiary

and may reserve a point or question for *in banc* review as provided by the Maryland Constitution.

**State Revenues:** General fund revenues may increase minimally as a result of the bill's monetary penalty provision from cases heard in the District Court.

**State Expenditures:** General fund expenditures may 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 these proposed crimes 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 \$2,600 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 variable medical care and variable operating costs) is \$342 per month. Excluding all medical care, the average variable costs total \$164 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 2010 are estimated to range from \$23 to \$71 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 may increase minimally as a result of the bill's monetary penalty provision from cases heard in the circuit courts.

**Local Expenditures:** Expenditures may 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 \$46 to \$141 per inmate in fiscal 2010.

## **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Commission on Criminal Sentencing Policy, Judiciary (Maryland District Court), Department of Public Safety and Correctional Services, Department of Legislative Services

**Fiscal Note History:** First Reader - January 23, 2009  
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