

Department of Legislative Services
Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE

House Bill 376
Judiciary

(Delegate Schuler)

Judicial Proceedings

**Criminal Procedure - Concurrent Court Jurisdiction - Second or Subsequent
Offense of Failure to Register with Sex Offender Registry**

This bill authorizes concurrent jurisdiction between the District Court and circuit courts in a criminal case in which a person is charged with a second or subsequent offense of knowingly failing to register, knowingly failing to furnish required notice, or knowingly providing false information of a material fact to the State's sex offender registry.

Fiscal Summary

State Effect: The bill's changes can be handled with existing resources.

Local Effect: Potential minimal decrease in local expenditures to the extent that cases involving this offense are pursued in the District Court. Revenues are not affected.

Small Business Effect: None.

Analysis

Current Law: In general, misdemeanors are heard in the District Court and felonies are heard in circuit courts. However, some felonies specified in statute are heard in the District Court. A misdemeanor may be brought in either the District Court or a circuit court, at the discretion of the prosecutor, if the penalty is confinement for three years or more or a fine of \$2,500 or more. If the defendant demands a jury trial and is entitled to one, the case must go to a circuit court.

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.

Registrants are required to register within certain time limits, and must provide timely updates to the registry upon changing residences, being granted a legal change of name, or commencing or terminating enrollment or employment with an institution of higher education in the State.

Registrants must re-register in person every six months, or in the case of sexually violent predators, every three months. The duration of the registration may be 10 years or life, depending on the classification of the offender or the type of offense the registrant committed. A registrant who is not a resident must register for the appropriate time period or until the end of the registrant's employment, student enrollment, or transient status in the State.

A second or subsequent offense of knowingly failing to register, knowingly providing false information of a material fact required for the registry, or knowingly failing to provide written notice regarding change of address, legal change of name, or change in employment or enrollment at a higher education institution is a felony subject to maximum penalties of five years imprisonment and/or a \$10,000 fine.

Background: According to the Maryland State Commission on Criminal Sentencing Policy, there were convictions on 5 counts of a second or subsequent failure to register with the sex offender registry in fiscal 2007, and 17 counts in fiscal 2008.

Additional Information

Prior Introductions: None.

Cross File:SB 989 (Senator Stone) - Rules.

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

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ncs/kdm

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