

Department of Legislative Services
Maryland General Assembly
2010 Session

FISCAL AND POLICY NOTE

House Bill 740
Judiciary

(Delegate King)

Criminal Procedure - Extended Sexual Offender Parole Supervision - Conditions of Supervision

This bill alters the list of authorized conditions of extended sexual offender parole supervision. It specifies that any certified sexual offender treatment program that an extended sexual offender parole supervisee is required to participate in must be located in a secure facility. It also requires an extended sexual offender parole supervisee participating in a residential or nonresidential substance abuse treatment program to be monitored through global positioning satellite (GPS) tracking technology.

Fiscal Summary

State Effect: Additional general fund GPS monitoring costs for the Division of Parole and Probation (DPP). Actual costs will depend on the number of sexual offenders subject to residential or nonresidential substance abuse treatment programs. Under one set of assumptions, general fund expenditures may increase by \$3,100 in FY 2011. Future year costs may include the need for additional personnel for DPP. Revenues are not affected.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: Chapter 4 of the 2006 special session provided for extended supervision of sexual offenders by creating an extended sexual offender parole scheme that requires specified sexual offenders to have a term of extended sexual offender parole supervision for a minimum of three years to a maximum of a term of life, with the ability to petition

for discharge after that minimum period. Included among its many provisions are the following:

Extended Parole Supervision

- Specifies an offender subject to the extended sexual offender parole scheme as a person who is a sexually violent predator; has been convicted of first or second degree rape, first degree sexual offense, or (with certain exceptions) second or third degree sexual offense; has been convicted of attempted first or second degree rape, attempted first degree sexual offense, or (with certain exceptions) attempted second degree rape; has been convicted of sexual abuse of a minor for commission of a sexual act involving penetration of a child under the age of 12 years; or has been convicted more than once of a crime as a child sexual offender, an offender, or a sexually violent offender;
- requires that a term of extended sexual offender parole supervision apply to such a defendant sentenced on or after August 1, 2006;
- requires the Parole Commission to enter into agreements with defendants that set out specific conditions of supervision, which may include GPS monitoring; geographic restrictions on residence or presence; restrictions on employment or participation in activities; requirement to participate in sex offender treatment; a prohibition from using illicit drugs or abusing alcohol; the authorization of parole agents to access an offender's personal computer; a requirement to take polygraph exams; and a prohibition from contacting specific individuals or categories of individuals;
- requires sexual offender management teams, consisting of at least a specially trained parole agent and a sex offender treatment provider, to conduct the extended parole supervision and submit progress reports to the Parole Commission;
- creates a Sexual Offender Advisory Board, with specified reporting requirements, to review technology for the tracking of offenders; review the effectiveness of the State's laws concerning sex offenders; review the laws of other jurisdictions regarding sex offenders; review practices and procedures of the Parole Commission and DPP regarding supervision and monitoring of sex offenders; review developments in the treatment and assessment of sex offenders; and develop standards for conditions of extended sex offender parole supervision based on current and evolving best practices in the field of sex offender management; and
- requires the advisory board to be staffed by the Department of Public Safety and Correctional Services (DPSCS) and the Department of Health and Mental Hygiene (DHMH).

Registration

- Requires all categories of offenders to register with local authorities rather than with DPSCS;
- makes the initial registration of a person on the sex offender registry a reportable event for the Criminal Justice Information System;
- requires sexually violent offenders, child sex offenders, and offenders to register in person every six months and provide an updated photograph at least once each year (sexually violent predators continue to reregister every three months);
- requires a sex offender registrant to send written notice of a change of employment, change of address, or legal change of name to the State sex offender registry within DPSCS;
- requires registrants on the sex offender registry to provide a DNA sample, unless the sole conviction for which they are required to register is a misdemeanor; and
- requires information about registration statements to include a plain language description of the offender's crime excluding detail that would identify the victim.

Community Notification

- Makes various changes to current law community notification provisions including: (1) requiring that notice be given of the change of address of a child sexual offender, (2) requiring that notice be given to private schools in addition to public schools, and (3) specifically authorizing local law enforcement agencies to provide notice to child care and recreation facilities, faith institutions, and other organizations that serve children and other individuals vulnerable to child sexual offenders;
- requires DPSCS to allow the public to electronically transmit information about sexual offenders; and
- requires DPSCS to allow the public to request email notification of the release from incarceration of a registered offender and the registration information of the offender.

Penalties/Restrictions

- Prohibits, with specified exceptions, 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. The Act also prohibits a person who contracts with a county board of education or nonpublic school to knowingly employ a person who is a registrant. A violator of

either offense is guilty of a misdemeanor and subject to maximum penalties of imprisonment for five years and/or a fine of \$5,000;

- elevates, for a second or subsequent conviction, the crime of failing to register from a misdemeanor to a felony and increases maximum penalties from incarceration for three years and/or a fine of \$5,000 to incarceration for five years and/or a fine of \$10,000; and
- requires, when the victim is under age 13, a mandatory minimum, nonsuspendable 25-year sentence for a person at least 18 years old convicted of first degree rape or first degree sexual offense. A similar five-year minimum sentence is required under the same circumstances for second degree rape or second degree sexual offense. The State is required to provide at least 30 days notice when seeking such a mandatory minimum sentence for any of these offenses. In 2007, sentencing under these provisions were made nonparolable.

Background: To date, no sexual offenders have been subject to the extended sexual offender parole supervision provisions of Chapter 4. The Sexual Offender Advisory Board was reconstituted in February 2010, but had previously not met.

Assuming that there is no need for additional monitoring personnel, passive GPS monitoring costs about \$5.50 per offender per day (\$2,000 per year) and active/constant monitoring costs about \$8.80 per offender per day (\$3,200 per year). Under the bill, it is assumed that passive GPS tracking would be used.

State Fiscal Effect: *For purposes of illustration only*, if 20 individuals are remanded to a residential or nonresidential 28-day sexual offender treatment program requiring GPS monitoring and assuming the monitoring could be handled with existing DPP personnel, general fund expenditures may increase by \$3,080 in fiscal 2011. Potential future year costs cannot be reliably predicted without any actual experience under the bill.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Charles, Frederick, and Montgomery counties; Department of Health and Mental Hygiene; Judiciary (Administrative Office of the Courts); Department of Juvenile Services; Department of State Police; Department of Public Safety and Correctional Services; Department of Legislative Services

Fiscal Note History: First Reader - February 22, 2010
ncs/hlb

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