

Department of Legislative Services
Maryland General Assembly
2010 Session

FISCAL AND POLICY NOTE

Senate Bill 933 (Senators Zirkin and Stone)
Judicial Proceedings

Criminal Procedure - Sexual Offender Registry - Failure to Provide Required Information

This bill prohibits an offender required to register with the State's sex offender registry from knowingly failing to provide any information required to be included in a registration statement and subjects such a person to current law misdemeanor or felony penalties.

Fiscal Summary

State Effect: Potential minimal increase in general fund revenues and expenditures due to the applicable penalty provisions.

Local Effect: Potential minimal increase in local revenues and expenditures due to the applicable penalty provisions.

Small Business Effect: None.

Analysis

Current Law: A criminal violation occurs when a registrant knowingly: (1) fails to register; (2) fails to provide certain, but not all, information required by statute for the registry; or (3) provides false information of a material fact as required by this subtitle. For a first offense, a violator is guilty of a misdemeanor and subject to maximum penalties of imprisonment for three years and/or a fine of \$5,000. For a second or subsequent offense, a violator is guilty of a felony and subject to maximum penalties of imprisonment for five years and/or a fine of \$10,000.

The specified information that if not provided subjects the person required to register to criminal penalties are:

- a registrant who changes residences and does not send written notice of the change to the State registry within five days after the change occurs;
- a registrant who commences or terminates enrollment as a full-time or part-time student at an institution of higher education in the State and does not send written notice to the State registry within five days after the commencement or termination of enrollment;
- a registrant who commences or terminates carrying on employment at an institution of higher education in the State and does not send written notice to the State registry within five days after the commencement or termination of employment; and
- a registrant who is granted a legal change of name by a court and does not send written notice of the change to the State registry within five days after the change is granted.

Background: The Division of Correction (DOC) reports an intake of 547 persons in fiscal 2009 who were convicted for knowingly failing to register, failing to provide all required registration information, or providing false registration information.

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

State Expenditures: General fund expenditures increase minimally as a result of the bill's incarceration penalties due to more people being committed to DOC facilities and increased payments to counties for reimbursement of inmate costs. The number of people convicted of this proposed crime 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 \$2,750 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 \$371 per month. Excluding all medical care, the average variable costs total \$182 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. Prior to fiscal 2010, the State reimbursed counties for part of their incarceration costs, on a per diem basis, after a person has served 90 days.

Currently, the State provides assistance to the counties for locally sentenced inmates and for inmates who are sentenced to and awaiting transfer to the State correctional system. A \$45 per diem grant is provided to each county for each day between 12 and 18 months that a sentenced inmate is confined in a local detention center. Counties also receive an additional \$45 per day grant for inmates who have been sentenced to the custody of the DOC but are confined in a local facility. The State does not pay for pretrial detention time in a local correctional facility. Persons sentenced 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 increase minimally as a result of the bill's monetary penalty provisions from cases heard in the circuit courts.

Local Expenditures: Expenditures increase minimally as a result of the bill's incarceration penalties. Counties pay the full cost of incarceration for people in their facilities for the first 12 months of the sentence. A \$45 per diem State grant is provided to each county for each day between 12 and 18 months that a sentenced inmate is confined in a local detention center. Counties also receive an additional \$45 per day grant for inmates who have been sentenced to the custody of DOC but are confined in a local facility. Per diem operating costs of local detention facilities are expected to range from \$57 to \$157 per inmate in fiscal 2011.

Additional Comments: The Office of the Public Defender (OPD) advises that the bill would create a need for the agency to hire three additional assistant public defenders at a cost of about \$186,100 in fiscal 2011 and growing to \$290,200 by fiscal 2015. This estimate was based on an assumption that the bill would result in 1,604 additional violations per year, 160 felonies, and 1,444 misdemeanors. Legislative Services believes that such a level of additional violations is unlikely and that representation by OPD for violations under the bill could be handled with existing budgeted resources. An offender's registration statement already requires the information subject to violation under the bill.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Charles, Frederick, Montgomery, and Somerset counties; Department of State Police; Office of the Public Defender; Department of Public Safety and Correctional Services; Department of Legislative Services

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