

Department of Legislative Services  
Maryland General Assembly  
2010 Session

FISCAL AND POLICY NOTE  
Revised

House Bill 254

(Delegates Schuh and Smigiel)

Judiciary

Judicial Proceedings

---

**Crimes - Sexual Offenses Against Children - Jessica's Law Enhancement**

---

This bill increases the penalties for a person 18 years of age or older convicted of second degree rape or second degree sexual offense of a victim younger than the age of 13. The bill increases the mandatory minimum sentence from 5 years to 15 years imprisonment and increases the maximum term of imprisonment from 20 years to imprisonment for life. The bill alters the notification requirement if the State intends to seek the mandatory minimum sentences to reflect the increased penalties.

---

**Fiscal Summary**

**State Effect:** Potential minimal increase in State expenditures as a result of the bill's incarceration penalties. Any increase in expenditures will not be incurred for five years. Revenues are not affected.

**Local Effect:** None.

**Small Business Effect:** None.

---

**Analysis**

**Current Law:** In general, the offenses specified in this bill carry the maximum penalties listed below.

*Second Degree Rape:* A conviction for second degree rape generally carries a maximum penalty of 20 years imprisonment. A 5-year mandatory minimum, nonsuspendable, nonparolable sentence is required for a defendant over the age of 18 years who is convicted of second degree rape involving a victim under age 13.

*Second Degree Sexual Offense:* A conviction for second degree sexual offense generally carries a maximum penalty of 20 years imprisonment. A 5-year mandatory minimum, nonsuspendable, nonparolable sentence is required for a defendant over the age of 18 years who is convicted of second degree sexual offense involving a victim under age 13.

If the State intends to seek the mandatory minimum sentences for either of these offenses, the State must notify the defendant of its intention in writing at least 30 days before trial.

**Background:** Currently, approximately 27,000 persons are serving a prison sentence in State correctional facilities. The Division of Correction (DOC) does not track intake or standing population data to reflect the age of the victim. The number of offenders convicted under the circumstances covered by the bill is believed to be few and is expected to remain that way. According to the State Commission on Criminal Sentencing Policy, there have been no convictions for either of the offenses affected by the bill since they were enacted during the 2006 special session.

**State Expenditures:** General fund expenditures increase minimally as a result of the bill's incarceration penalties due to people being committed to DOC facilities for longer periods of time. The number of people affected by the provisions of this bill 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 \$409 per month. Excluding all medical care, the average variable costs total \$182 per month.

The Office of the Public Defender (OPD) estimates that the bill would necessitate the hiring of four additional assistant public defenders. OPD's estimate is based on the belief that the bill will generate fewer plea agreements and more trials. Last year, OPD handled approximately 1,850 sexual offense cases. The OPD fiscal estimate is based on the assumptions that (1) 15% of these cases will go to jury trial as a result of the bill; (2) each case that goes to jury trial in lieu of a plea bargain will require 20 additional hours of preparation; and (3) future caseloads will remain consistent with those in prior years. The Department of Legislative Services disagrees with this estimate given that the bill applies to a narrowly defined population of defendants.

## Additional Information

**Prior Introductions:** None.

**Cross File:** SB 622 (Senator Jacobs) - Judicial Proceedings.

**Information Source(s):** Commission on Criminal Sentencing Policy, Judiciary (Administrative Office of the Courts), Office of the Public Defender, Department of Public Safety and Correctional Services, State's Attorneys' Association, Department of Legislative Services

**Fiscal Note History:** First Reader - February 19, 2010  
ncs/kdm Revised - House Third Reader - March 29, 2010

---

Analysis by: Amy A. Devadas

Direct Inquiries to:  
(410) 946-5510  
(301) 970-5510