

Department of Legislative Services
2010 Session

FISCAL AND POLICY NOTE

House Bill 544
Judiciary

(Delegate Frank, *et al.*)

Sex Offenders - Homeless and Temporary Residents - Registration and Reporting Requirements

This bill provides for the registration and reporting of homeless and temporary resident sexual offenders.

Fiscal Summary

State Effect: The bill's requirements can be handled with existing budgeted resources of the Department of Public Safety and Correctional Services (DPSCS) and the Department of State Police (DSP).

Local Effect: Potential expenditure increases in some jurisdictions. The continued availability of grants through the Sex Offender Compliance and Enforcement in Maryland (SOCEM) program and federal registration assistance funds will continue to offset operational costs for law enforcement in some jurisdictions. Additional personnel may be eventually necessary for some circuit court operations. **This bill may impose a mandate on a unit of local government.**

Small Business Effect: None.

Analysis

Bill Summary: The bill includes the following provisions:

- provides for the registration of sexual offenders who are homeless with no fixed address;

- requires a homeless person to register in person, within a specified timeframe, with the local law enforcement unit in any county where the registrant “habitually lives;”
- defines “habitually lives” as any place where a person lives or sleeps with any regularity, including where a homeless person is stationed during the day or sleeps at night and any place where a person visits for longer than five hours per visit more than five times within a 30-day period;
- requires re-registration weekly while habitually living in the county;
- specifies the information a homeless registrant must provide;
- provides that, if a homeless registrant obtains a fixed address or moves to another county, the registrant must register with the appropriate supervising authority and local law enforcement unit within three days;
- requires that all residence notifications be made in writing or in person prior to obtaining a temporary residence or temporarily altering the location and contain the anticipated dates that the residence or location will be used;
- requires all sexual offender registration statements to include the name and address of the registrant’s employer and a description of the employment location, if that differs from the employer’s address;
- requires all sexual offender registration statements to include the permanent or frequent address or locations where all vehicles are kept;
- requires all sexual offender registration statements to include the address of any property owned solely by the registrant or in which the registrant has an ownership interest; and
- requires all sexual offender registration statements to include the criminal history of the sex offender, including the date of all arrests and convictions, the status of parole, probation, or supervised release, and registration status.

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 life, with the ability to petition for discharge after that minimum period. Chapter 4 also provided, in part, sexually violent offenders, child sex offenders, and offenders register in person every six months and provide an updated photograph at least once each year (sexually violent predators continue to re-register every three months). The Act 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. Chapter 4 also requires information about registration statements to include a plain language description of the offender’s crime excluding detail that would identify the victim.

Chapter 4 made various changes to 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) 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. DPSCS is required to allow the public to electronically transmit information about sexual offenders and is required to allow the public to request email notification of the release from incarceration of a registered offender and the registration information of the offender.

Background: The federal Sex Offender Registration and Notification Act (SORNA), enacted as Title I of the Adam Walsh Child Protection and Safety Act of 2006 (P.L. 109-248), requires conformity by the states with various aspects of sex offender registration provisions, including registration of specified juvenile offenders, collection of specific information from registrants, verification, duration of registration, access to and sharing of information, and penalties for failure to register. The final guidelines/regulations were issued on July 2, 2008. The deadline for substantial implementation of SORNA's requirements by all jurisdictions was extended to July 27, 2010.

The federal Act requires that the registry contain extensive information for each offender, including palm prints, Internet identifiers and addresses, travel and immigration documents, professional licensing information, vehicle information, and a physical description of the offender.

Under SORNA, a sex offender must appear in person, allow the jurisdiction to take a current photograph, and verify the information in each registry in which that sex offender is required to be registered not less frequently than:

- annually for a tier I sex offender;
- every six months for a tier II sex offender, and
- every three months for a tier III sex offender.

Sex offenders must carry out this schedule of personal appearances in all jurisdictions where they reside, are employed, and attend school. As with other SORNA requirements, jurisdictions may require in-person appearances by sex offenders with greater frequency than the minimum required by SORNA.

Failure to comply with SORNA puts a state at risk to lose 10% of Byrne Justice Assistance grants, which all states use to pay for such things as drug task forces, anti-gang units, police overtime, and other law enforcement activities. Under the federal American Recovery and Reinvestment Act of 2009 (the federal "Stimulus Bill"), the HB 544 / Page 3

Byrne formula grants program has been reauthorized from fiscal 2009 through 2011. Maryland will receive an estimated \$26.6 million in fiscal 2010 and \$18.5 million in fiscal 2011. However, because one-year extensions on compliance have been granted to all states, Indian tribes, territories, and the District of Columbia, no Byrne funds are at risk in fiscal 2010. Unless a second one-year extension is sought and granted, Maryland could be at risk to lose about \$1.9 million in Byrne funding in fiscal 2011. Maryland's federal Byrne grant funding levels are shown in **Exhibit 1** for recent State budget years.

Exhibit 1
Byrne Justice Assistance Grants
(\$ in Millions)

<u>FY 2007</u>	<u>FY 2008</u>	<u>FY 2009</u>	<u>FY 2010</u>	<u>FY 2011</u>
\$5.7	\$6.5	\$2.4	\$26.6	\$18.5

Source: Governor's Office of Crime Control and Prevention; Department of Legislative Services

During the 2008 session, a departmental bill (House Bill 1538) was introduced at the request of DPSCS to conform State sexual offender notification and registration provisions to SORNA. The provisions of the bill were also submitted to the federal Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking (SMART Office) as a proposed compliance submission should the bill pass. The bill did not pass, and the SMART Office found that, while Maryland's proposed changes and efforts were commendable, they would not bring the State into substantial compliance under the Act.

Because the Walsh Act defines the term "resides" to mean "the location of the individual's home or other place where the individual habitually lives," the residency registration requirements are extended to circumstances where the offender is homeless, living on the street, or moving from shelter to shelter, or when the place of residence itself moves from place to place, such as a mobile home, trailer, or houseboat. Accordingly, sex offenders must register (1) in any jurisdiction in which they have a home; and (2) in any jurisdiction in which they habitually live (even if they have no home or fixed address in the jurisdiction, or no home anywhere). Maryland law does not currently account for the homeless offender population. The number of homeless persons who are subject to registration requirements annually is unknown.

Local Fiscal Effect: The monitoring of sex offenders in the State is primarily a local law enforcement function and some new costs, varying by jurisdiction, may arise in

connection with the weekly registration requirements for homeless registrants. In Carroll County, local sex offender monitoring responsibilities are handled by the Department of State Police.

The Administrative Office of the Courts (AOC) reports that the bill will increase court workloads and costs in instances involving court supervised registrants. The AOC did not quantify those increases. The Montgomery County Circuit Court advises that the bill will have no fiscal impact. The Montgomery County Police Department and Department of Correction and Rehabilitation report that the bill will have no fiscal impact.

Harford County advises that the bill will require the hiring of one additional sex offender investigator at a cost (including fringe benefits and operating expenses) of about \$28,500 in fiscal 2011 and increasing to \$39,400 by fiscal 2015.

Talbot County advises that there is no direct fiscal impact resulting from the bill. Wicomico County advises that the bill will result in additional local workloads, but does not identify any discernable new expenditures. Allegany County anticipates no significant fiscal impact under the bill.

The Baltimore City Police Department reports that, in fiscal 2009, DPSCS reimbursed Baltimore City a total of \$249,000 for 1,245 registrants. Assuming the continued availability of such reimbursements, Baltimore City advises only minimal fiscal impact under the bill.

Organized through the Governor's Office of Crime Control and Prevention (GOCCP), the SOCEM program provides resources to all 24 designated State law enforcement agencies responsible for the registration and re-registration of sex offenders in the offender registry. Current grant funding through GOCCP assists State and local law enforcement agencies in the enforcement of registration and compliance requirements. The proposed fiscal 2011 State budget includes \$728,916 in general funds for the SOCEM grant program. Caroline County is concerned that current State assistance is not adequate to cover increased sex offender monitoring responsibilities.

Additional Information

Prior Introductions: None.

Cross File: SB 260 (Senators Brochin and Stone) - Judicial Proceedings.

Information Source(s): Judiciary (Administrative Office of the Courts); Department of Public Safety and Correctional Services; Department of State Police; Baltimore City;

Allegany, Caroline, Harford, Montgomery, Talbot, and Wicomico counties; Department of Legislative Services

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Analysis by: Guy G. Cherry

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