

Department of Legislative Services
Maryland General Assembly
2010 Session

FISCAL AND POLICY NOTE

House Bill 1194

(Delegate Hecht, *et al.*)

Judiciary

Criminal Procedure - Registration of Sexual Offenders - Continuing Course of Conduct

This bill requires that a person convicted on or after October 1, 2002, of a continuing course of unlawful sexual contact with a child under age 14 to register for life with the State's sexual offender registry as a child sex offender every six months.

Fiscal Summary

State Effect: None. The bill's requirements can be handled with the existing budgeted resources of the Department of State Police and the Department of Public Safety and Correctional Services (DPSCS).

Local Effect: The additional sex offender registrations required under the bill are assumed to be few in number and able to be handled by local law enforcement units responsible for taking the registration statements. Furthermore, 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.

Small Business Effect: None.

Analysis

Current Law: A person is prohibited from engaging in three or more acts in a continuing course of unlawful sexual conduct with a victim under age 14. A violator is guilty of a felony and is subject to imprisonment not exceeding 30 years. A sentence

imposed for this violation may be separate from and consecutive to or concurrent with a sentence for child abuse.

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 delinquent for these offenses through the juvenile court system are not included in the registry.

Maryland has four categories of persons convicted of sexual offenses: (1) a child sexual offender; (2) an offender; (3) a sexually violent offender; and (4) a sexually violent predator.

“Child sexual offender” means a person who has been (1) convicted of sexual abuse of a minor; (2) has been convicted of first or second degree rape or first, second, or third degree sexual offense involving a child under 15 years of age; (3) has been convicted of fourth degree sexual offense involving such a child and has been ordered by the court to register under these provisions; or (4) has been convicted in another state or in a federal, military, or Native American tribal court of a crime that, if committed in this State, would constitute one of these crimes.

“Offender” means a person who is ordered by a court to register and who has been convicted of (1) child kidnapping; (2) kidnapping; (3) fourth degree sexual offense, if the victim is under 18; (4) false imprisonment, if the victim is under 18 and the person is not the victim’s parent; (5) a crime that involves soliciting a person under 18 to engage in sexual conduct; (6) production or distribution of child pornography; (7) prostitution or related criminal prohibitions if the intended prostitute or victim is under 18; (8) any crime that involves conduct that by its nature is a sexual offense against a person under 18; (9) an attempt to commit any of these offenses; or (10) has been convicted in another state or in a federal, military, or Native American tribal court of a crime that, if committed in Maryland, would constitute one of these crimes.

“Sexually violent predator” means a person who is convicted of a sexually violent offense and who has been determined to be at risk of committing another sexually violent offense. Also included under this definition are persons who are or were required to register every 90 days for life under the laws of another state or a federal, military, or Native American tribal jurisdiction.

“Sexually violent offender” means a person who has been convicted of a sexually violent offense or who has been convicted of an attempt to commit a sexually violent offense.

Sexual offenders are required to register, every three months or every six months, with the Crimes Against Children and Sexual Offender Registry for a term of either 10 years or life depending on the offense. Registration must include a photograph, which must be updated at least annually. The registry is operated by the Sexual Offender Registry unit of DPSCS. Under the State’s sexual offender registration laws, a State’s Attorney may request that a sexual offender be designated a sexually violent predator. Lifetime registration is required for: (1) sexually violent predators; (2) persons convicted of a sexually violent offense; (3) persons convicted of child abuse for commission of a sexual act involving penetration of a child under 12 years old; and (4) recidivist sexual offenders.

Background: 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. Sex offender registrations are handled by units of law enforcement in 23 jurisdictions. The Department of State Police is responsible for registrations in Carroll County.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Garrett and Montgomery counties, Commission on Criminal Sentencing Policy, Judiciary (Administrative Office of the Courts), State’s Attorneys’ Association, Department of Legislative Services

Fiscal Note History: First Reader - February 21, 2010
ncs/hlb

Analysis by: Guy G. Cherry

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