

Department of Legislative Services
Maryland General Assembly
2010 Session

FISCAL AND POLICY NOTE

House Bill 736
Judiciary

(Delegate King, *et al.*)

Criminal Procedure - Registered Sex Offenders - Residency Restriction

This bill prohibits a registered sex offender from knowingly residing within 1,000 feet of a school or child care facility. The bill specifies how that distance must be measured. Exceptions are applied to registrants owning or occupying property under certain conditions or circumstances. A violator is guilty of a misdemeanor and subject to maximum penalties of imprisonment for five years and/or a fine of \$5,000.

Fiscal Summary

State Effect: The criminal penalty provisions of the bill are not expected to significantly affect State finances or operations. Residency restrictions for sex offenders in Carroll County can be handled with the existing budgeted resources of the State police.

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 partly offset operational costs for law enforcement in some jurisdictions. The criminal penalty provisions of the bill are not expected to significantly affect local finances or operations.

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 term of life, with the ability to petition for discharge after that minimum period. Chapter 4 also 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.

Specific conditions of extended sexual offender parole supervision must commence upon release of the extended parole supervision offender from incarceration or imposition of probation on the extended parole supervision offender and may include: (1) monitoring a registrant through global positioning satellite tracking technology; and (2) where appropriate and feasible, restricting a registrant from living in proximity to or loitering near schools, family day care centers, child care centers, and other places primarily used by minors.

Background: According to the National Conference of State Legislatures (NCSL), during the 1990s sex offender registration and notice to schools and others of nearby residence of registered sex offenders became common state policies. Interest in closer monitoring of sex offenders in the community has more recently prompted state laws to prohibit a sex offender from residing, working, or loitering within a specified distance of a school, child care center, or other child-oriented place.

All of these represent policy strategies that use registration requirement or other sex offender designation to provide restrictions that minimize proximity of convicted sex offenders to children. **Exhibit 1** is a compilation of the known state enactments 2007 through 2009 pertaining to restrictions on residency and other proximity to child-occupied places. The extent to which such restrictions are effective in monitoring of sex offenders continues to be debated across the country.

Local Fiscal Effect: The monitoring of sex offenders in the State is primarily a local law enforcement function. However in Carroll County local sex offender monitoring responsibilities are handled by the Department of State Police. Some new costs, varying by jurisdiction, may arise in connection with the bill's residency restrictions.

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: None.

Information Source(s): Caroline and Prince George's counties, Judiciary (Administrative Office of the Courts), Department of State Police, Office of the Public Defender, Department of Legislative Services

Fiscal Note History: First Reader - February 19, 2010
mpc/hlb

Analysis by: Guy G. Cherry

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

Exhibit 1
National Conference of State Legislatures
Restrictions Relating to Residency and Other Proximity to
Child-occupied Places

2009 Enactments

Alabama Act No. 2009-558

Clarifies elementary or secondary school and college or university as schools for which no adult criminal sex offenders may reside or accept employment within 2,000 feet. Also adds school bus stops to places that an adult criminal sex offender may not loiter on or within 500 feet of.

Arkansas Act 1406

Provides that a person charged with violating provisions that prohibit a registered sex offender from living within 2,000 feet of a school, public park, youth center, or day care center, will be required as a condition of release from custody not to return to the residence location until the charged is adjudicated.

Louisiana Act 210

Revises law concerning unlawful presence of a sex offender to add day care centers, group home, residential home, or child care facility as defined in state law, to locations (in addition to schools and various youth recreation sites) that a sexually violent predator is prohibited from residing within 1,000 feet. Similarly adds such facilities to those that a sex offender whose offense involved a minor child is prohibited as a condition of release is prohibited from going in, on, or within 1,000 feet of.

Maine Chapter 351

Prohibits municipalities from adopting or enforcing any ordinance or bylaw addressing persons who have been convicted of a sex offense in this state or another jurisdiction, that would impose special restrictions. Allows municipal residence restrictions, for persons convicted of Class A, B, or C sex offenses committed against persons less than 14 years old. Allows residence prohibition of maximum 750 feet from school. Provides that such residence restriction may not apply to a person who lived in the restriction area prior to adoption or amendment of an ordinance. States that an ordinance may not be premised on a person's obligation to register under state law.

Oklahoma Chapter 278

Prohibits a transitional living facility that houses sex offenders or persons convicted of a capital offense to be located within 2,500 feet of a school or residential neighborhood. Requires notification to state and local elected officials prior to establishment of any transitional living facility; and authorization must be provided by the municipality or the county.

South Carolina Chapter 77

Prohibits a local government from enacting an ordinance that expands or contracts the boundaries of the areas in which a sex offender may or may not reside under state law.

2008 Enactments

Idaho HB 382 (§ 18-8329)

Clarifies the premises to which sex offender access is prohibited and when such access is prohibited. Prohibits sex offenders from remaining upon other properties posted with a notice that they are used by a school, when the person has reason to believe children under the age of 18 years are present and are involved in a school activity or when children are present within 30 minutes before or after a scheduled school activity. Prohibits sex offenders from knowingly loitering on a public way within 500 feet from the property line of school grounds in this state, including properties posted with a notice that they are used by a school, when children under the age of 18 years are present and are involved in a school activity or when children are present within 30 minutes before or after a scheduled school activity; and residing within 500 feet of the property on which a school is located, measured from the nearest point of the exterior wall of the offender's dwelling unit to the school's property line.

Mississippi HB 519 (§ 45-33-25)

Provides that a person required to register as a sex offender under this chapter shall not reside within 1,500 feet of the real property comprising a public or nonpublic residential child-caring agency; a children's group care home; or any playground, ball park ,or other recreational facility utilized by persons under the age of 18 years.

South Carolina HB 3094 (§23-3-535)

Makes it unlawful for a sex offender who has been convicted of specified offenses to reside within 1,000 feet of a school, day care center, children's recreational facility, park, or public playground as measured by a straight line.

2007 Enactments

Alabama HB 54

Relates to any Class 1 municipality; prohibits more than one adult or juvenile criminal sex offender from residing in a residence with another offender whose name appears on the Jefferson County Sheriff's official published sex offender list; provides that the owner or lessee who permits such violation to be fined; provides for exemptions if the application provides a signed statement by the lessee that the lessee is not a convicted sex offender.

Arizona 1555

Prohibits level 3 registered sex offenders from residing within 1,000 feet of a school or child care center. Excludes established residences, minors, a person who has not been convicted of a subsequent offense in 10 years, excluding any time imprisoned. Prohibits counties, cities, or towns from enacting ordinance that provides greater restrictions.

Arkansas HB 1564

Creates a criminal offense prohibiting sex offenders from living near victims or contacting victims; adds the crimes of Internet stalking of a child, felony level video voyeurism, and felony level voyeurism to the list which require a person to register; revises other provisions of the state Sex Offender Registration Act relating to registration verification.

Arkansas HB 2266

Prohibits sex offenders who are required to register and assessed as level 3 or level 4 offenders from residing within 2,000 feet of the property on which any public park or youth center is located.

Arkansas HB 2336

Prohibits sex offenders who are required to register and assessed as level 3 or level 4 offenders from knowingly entering upon the campus of a public school.

Maine SB 518 (LD 1491)

Creates child-safe zones comprising public or private elementary or middle school property, and that of child care centers or nursery schools, athletic fields, parks, playgrounds, recreational facilities, children's camp, or other place where children are the primary users. Creates Class D crime for person required to register as a sex offender to intentionally or knowingly having direct or indirect contact with children less than 14 years of age in a child safe zone.

Mississippi SB 2825

Prohibits persons required to register as a sex offenders from being present on the real property of any school, in any method of transportation used by a school, or loitering within 500 feet of school property when individuals under the age of 18 are present.

North Dakota HB 1472

Provides that a sex offender may not knowingly enter upon the real property comprising a public or nonpublic elementary, middle, or high school unless allowed on school property via compliance with a written policy adopted by the respective school board; subject to misdemeanor penalty. Provides exception for purposes of voting in a school building used as a public polling place or attending an open meeting in a school building. Provides felony penalties for any adult who engages in, solicits with the intent to engage in, or causes another to engage in a sexual act with a minor, or commits indecent exposure within 50 feet of or on the real property comprising a public or nonpublic elementary, middle, or high school.

Tennessee SB 2048

Concerns sexual offenders; requires contracts for labor or services on school grounds or child care center grounds to require clause in contract that the contractor will not permit a sex offender to go on premises when children are present and violation is a breach of contract.

Utah HB 375

Increases the penalties for lewdness involving a child and restricts sex offenders presence at licensed day care or preschool facilities; public swimming pools; any primary or secondary school that is not on the grounds of a correctional facility; public community parks; public playgrounds, including areas designed to provide children space, recreational equipment, or other amenities intended to allow children to engage in physical activity.

Virginia HB 2776

Prohibits the location of sex offender counseling offices adjacent to residential areas.