

Department of Legislative Services
Maryland General Assembly
2010 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 776 (Senator Kramer, *et al.*)

Judicial Proceedings and Finance

Judiciary

Assisted Living and Nursing Home Residents Protection Act of 2010

This bill requires the Sexual Offender Advisory Board (SOAB) in the Department of Public Safety and Correctional Services (DPSCS) to review the policies and procedures relating to: (1) ensuring the protection of residents of nursing homes and assisted living facilities where sexual offenders reside or may reside; (2) notifying residents, employees, and residents' family members of the presence of sexual offenders residing in nursing homes or assisted living facilities; (3) employing sexual offenders in nursing homes or assisted living facilities; and (4) requiring law enforcement notification to nursing homes and assisted living facilities if a sexual offender resides in the home or facility. The review must include the applicable laws of other states and jurisdictions, and the potential impact on health care providers of recommended changes in applicable policies and procedures. SOAB must report to the General Assembly by December 1, 2011, on its findings and recommendations.

The bill terminates December 31, 2011.

Fiscal Summary

State Effect: The bill's requirements can be handled with existing budgeted resources.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: 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 as adults and convicted for crimes that require registration are included in the registry. Juveniles who are adjudicated delinquent for these crimes through the juvenile court system are not included in the registry.

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.

Chapter 4 of the 2006 special session created a Sexual Offender Advisory Board, with specified reporting requirements, to review technology for the tracking of offenders; review the effectiveness of the State's laws concerning sex offenders; review the laws of other jurisdictions regarding sex offenders; review practices and procedures of the Parole Commission and the Division of Parole and Probation regarding supervision and monitoring of sex offenders; review developments in the treatment and assessment of sex offenders; and develop standards for sexual offender treatment based on current and evolving best practices; certify State sexual offender treatment programs that are in compliance with the board's standards; and provide training for sexual offender management teams. The advisory board is required to be staffed by DPSCS and the Department of Health and Mental Hygiene.

Background: There are over 2,100 licensed health care facilities in the State, including 1,400 assisted living facilities, 234 nursing homes, and 4 intermediate care facilities. The State does not operate any assisted living facilities and few related facilities (nursing homes).

There are approximately 6,400 persons currently in the State's sexual offender registry. In 2008, there were a total of 13 registrants residing in a nursing home or assisted living facility. Of that group, 3 were required to register for 10 years and the remainder for life. They ranged in age from 29 to 82, with an average age of 61. The name, address, charge,

status, and photograph of each offender, which may be searched geographically, are electronically posted to the Internet and can be accessed via the DPSCS web site.

Additional Information

Prior Introductions: None.

Cross File: HB 879 (Delegate Kramer, *et al.*) - Judiciary.

Information Source(s): Department of Health and Mental Hygiene, Department of State Police, Department of Public Safety and Correctional Services, Department of Legislative Services

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