

Department of Legislative Services  
Maryland General Assembly  
2010 Session

FISCAL AND POLICY NOTE

House Bill 809  
Judiciary

(Delegate Dumais, *et al.*)

---

**Criminal Procedure - Extended Parole Supervision Offender - Minor at Time of Act**

---

This bill alters the definition of “extended parole supervision offender” to include a person who was a minor at the time of the offense and who is required to register with the person’s supervising authority.

---

**Fiscal Summary**

**State Effect:** None. Any increase in the workload of the Division of Parole and Probation, the Parole Commission, or the courts can be handled with existing resources.

**Local Effect:** None.

**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 of a term of life, with the ability to petition for discharge after that minimum period. Chapter 4 also provided for the following:

*Extended Parole Supervision*

- specifies an offender subject to the extended sexual offender parole scheme as a person who is a sexually violent predator; has been convicted of first or second

degree rape, first degree sexual offense, or (with certain exceptions) second or third degree sexual offense; has been convicted of attempted first or second degree rape, attempted first degree sexual offense, or (with certain exceptions) attempted second degree rape; has been convicted of sexual abuse of a minor for commission of a sexual act involving penetration of a child under the age of 12; or has been convicted more than once of a crime as a child sexual offender, an offender, or a sexually violent offender;

- requires that a term of extended sexual offender parole supervision apply to such a defendant sentenced on or after August 1, 2006;
- requires the Parole Commission to enter into agreements with defendants that set out specific conditions of supervision, which may include GPS monitoring; geographic restrictions on residence or presence; restrictions on employment or participation in activities; requirement to participate in sex offender treatment; a prohibition from using illicit drugs or abusing alcohol; the authorization of parole agents to access an offender's personal computer; a requirement to take polygraph exams; and a prohibition from contacting specific individuals or categories of individuals;
- requires sexual offender management teams, consisting of at least a specially trained parole agent and a sex offender treatment provider, to conduct the extended parole supervision and submit progress reports to the Parole Commission;
- creates 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 (DPP) regarding supervision and monitoring of sex offenders; review developments in the treatment and assessment of sex offenders; and develop standards for conditions of extended sex offender parole supervision based on current and evolving best practices in the field of sex offender management; and
- requires the advisory board to be staffed by the Department of Public Safety and Correctional Service and the Department of Health and Mental Hygiene.

Chapter 4 of the 2006 special session has never been fully implemented. As of February 2010, no sexual offenders have been placed on extended supervision and the board has not had any substantive meetings.

In general, the juvenile court has jurisdiction over a child alleged to be delinquent. If the juvenile court obtains jurisdiction, that jurisdiction continues until that person reaches age 21 unless terminated sooner. The juvenile court does not have jurisdiction over children at least age 16 who are alleged to have committed a violent crime, children at

least age 14 charged with a capital crime, and children who have previously been convicted as an adult of a felony and are subsequently alleged to have committed an act that would be a felony if committed by an adult. The juvenile court has exclusive original jurisdiction, but only for the purpose of waiving it, over a person age 21 or older who is alleged to have committed a delinquent act while a child.

A police record concerning a child is confidential and must be maintained separate from those of adults. Its contents may not be divulged, by subpoena or otherwise, except by court order upon a showing of good cause or as otherwise provided under provisions of the Education Article relating to arrests for reportable offenses. This does not prohibit access to and confidential use of the record by the Department of Juvenile Services (DJS) or, in the investigation and prosecution of the child, by any law enforcement agency. This also does not prohibit a law enforcement agency, DJS, or the Criminal Justice Information System (CJIS) from including in the Law Enforcement Computer Information System information about an outstanding juvenile court ordered writ of attachment, for the sole purpose of apprehending a child named in the writ.

A court record pertaining to a child is confidential and its contents may not be divulged, by subpoena or otherwise, except by court order upon a showing of good cause or as otherwise provided under provisions of the Education Article relating to arrests for reportable offenses. This does not prohibit access to and the use of the court record or fingerprints of a child under provisions governing CJIS in a proceeding involving the child, by personnel of the court, the State's Attorney, counsel for the child, a court appointed special advocate for the child, or authorized personnel of DJS. This does not generally prohibit access to and confidential use of the court record or fingerprints of a child under the applicable CJIS provisions or in an investigation and prosecution by a law enforcement agency.

The court record or fingerprints of a child may not be disclosed to a federal criminal justice agency or information center or any law enforcement agency other than a law enforcement agency of the State or a political subdivision of the State. Under specified circumstances, this does not prohibit access to and use of a court record by a judicial officer who is authorized under the Maryland Rules to determine a defendant's eligibility for pretrial release, by counsel for the defendant, or the State's Attorney if the individual is being charged as an adult.

The court, on its own motion or on petition, and for good cause, may order the court records of a child sealed, and, upon petition or on its own motion, must order them sealed after the child has reached age 21. If sealed, the records may not be opened, for any purpose, except by court order upon a showing of good cause.

These provisions do not prohibit access to or use of any juvenile record by DPP or the Maryland Parole Commission when DPP or the commission is carrying out any statutory duties either at the direction of a court of competent jurisdiction, or when the commission is carrying out any of its statutory duties, if the record concerns a charge or adjudication of delinquency.

These provisions do not prohibit access to and use of any juvenile record by the Division of Correction (DOC) when it is carrying out any of its statutory duties if the individual is committed to the custody of DOC and the record concerns an adjudication of delinquency.

These provisions do not prohibit access to or use of any juvenile record for criminal justice research purposes. A record used under this subsection may not contain the name of the individual to whom the record pertains, or any other identifying information which may reveal the individual's name.

---

### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Caroline, Howard, Montgomery, and Prince George's counties; Baltimore City; Department of Juvenile Services; Department of State Police; Department of Public Safety and Correctional Services; Department of Legislative Services

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

---

Analysis by: Guy G. Cherry

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