

Department of Legislative Services
Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE
Revised

House Bill 713
Judiciary

(Delegate Dumais, *et al.*)

Judicial Proceedings

Criminal Procedure - Seizure and Forfeiture - Property Used in Human
Trafficking

This bill (1) authorizes State and local law enforcement agencies to seize property in connection with a “human trafficking” violation and (2) establishes procedures for the seizure, forfeiture, and sale of property related to human trafficking violations.

The bill’s references to “human trafficking” include the following offenses: (1) human trafficking; (2) sexual solicitation of a minor; (3) child pornography; (4) receiving earnings of a prostitute; and (5) abduction of a child younger than 16 years old.

The bill applies prospectively to offenses committed after the bill’s October 1, 2013 effective date.

Fiscal Summary

State Effect: Minimal increase in general fund revenues from the proceeds of seized or forfeited property. It is expected that the bill’s provisions can be implemented with existing resources.

Local Effect: Minimal increase in local revenues from the proceeds of seized or forfeited property. Minimal increase in local expenditures to implement the provisions of the bill.

Small Business Effect: None.

Analysis

Bill Summary: The bill authorizes State or local law enforcement to seize property in connection with a violation of and conviction under the human trafficking law.

The bill establishes procedures for the seizure and forfeiture of property as a result of human trafficking violations, including the types of property that can be seized, the procedures and conditions that must be met for property to be seized, processing of seized property, and forfeiture of property by a defendant found guilty of a human trafficking violation.

Proceeds from the sale of seized or forfeited property must, after specified expenses are paid, be distributed to the general fund of the State or of the political subdivision that seized the property.

Current Law: Under the human trafficking prohibition, a person may not knowingly:

- take or cause another to be taken to any place for prostitution;
- place, cause to be placed, or harbor another in any place for prostitution;
- persuade, induce, or entice or encourage another to be taken to or placed in any place for prostitution;
- receive consideration to procure for or place in a house of prostitution or elsewhere another with the intent of causing the other to engage in prostitution or assignation;
- engage in a device, scheme, or continuing course of conduct intended to cause another to believe that if the other did not take part in a sexually explicit performance, the other or a third person would suffer physical restraint or serious harm; or
- destroy, conceal, remove, confiscate, or possess an actual or purported passport, immigration document, or government identification document of another while otherwise violating or attempting to commit these acts.

A person who commits human trafficking involving an adult victim is guilty of a misdemeanor and subject to maximum penalties of 10 years imprisonment and/or a fine of \$5,000. The misdemeanor offense of human trafficking is subject to prosecution at any time. The violator is subject to confinement in the penitentiary and may reserve a point or question for *in banc* review as provided by the Maryland Constitution.

A person who commits human trafficking involving a victim who is a minor is guilty of a felony and subject to maximum penalties of 25 years imprisonment and/or a fine of \$15,000.

A person who knowingly aids, abets, or conspires in the violation of human trafficking laws or knowingly benefits financially from ventures or activities in violation of State

human trafficking laws is subject to the same penalties imposed on a person who violated the applicable statute.

The District Court has concurrent jurisdiction with the circuit courts over the crime of felony human trafficking.

Background: The Maryland State Commission on Criminal Sentencing Policy (MSCCSP) reports the following convictions in the State's circuit courts during fiscal 2012: 25 convictions for sexual solicitation of a minor, 26 convictions for child pornography, 4 convictions for human trafficking (adult or minor), and 1 conviction for receiving the earnings of a prostitute. According to MSCCSP there were no convictions for abduction of a child younger than 16 years old during fiscal 2012.

According to the Judiciary, there were two cases in the District Court involving human trafficking of a minor in fiscal 2011.

Local Fiscal Effect: Baltimore County advises that the bill has a negligible fiscal impact, as the county already has procedures in place for the forfeiture of property. Baltimore County further advises that the bill's seizure provisions would help in enforcement efforts, but that the county would need further experience with the amounts involved to make a proper estimate. Carroll County does not anticipate that the bill has a significant fiscal impact. Cecil, Harford, Montgomery, and St. Mary's counties advise that the bill has minimal or no fiscal impact.

Additional Information

Prior Introductions: Similar bills have been introduced in previous sessions. HB 391 of 2012 received a hearing in the House Judiciary Committee. No further action was taken. SB 902 of 2012, its cross file bill, received a hearing in the Senate Judicial Proceedings Committee. No further action was taken. HB 418 of 2011 received a hearing in the House Judiciary Committee, but no further action was taken. SB 247 of 2011, its cross file, passed the Senate with amendments and received a hearing in the House Judiciary Committee. No further action was taken. SB 463 of 2010, as amended, passed the Senate and received a hearing in the House Judiciary Committee. No further action was taken. HB 514 of 2010 received a hearing in the House Judiciary Committee, but no further action was taken.

Cross File: None.

Information Source(s): Baltimore, Carroll, Cecil, Harford, Montgomery, and St. Mary's counties; Towns of Bel Air and Leonardtown; Maryland State Commission on

Criminal Sentencing Policy; Governor's Office of Crime Control and Prevention; Department of Natural Resources; Department of General Services; Department of Health and Mental Hygiene; Judiciary (Administrative Office of the Courts); Office of the Public Defender; State's Attorneys' Association; Maryland Department of Transportation; University System of Maryland; Department of Legislative Services

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