

Department of Legislative Services
Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE

House Bill 696
Judiciary

(Delegate Valderrama, *et al.*)

Criminal Law - Human Trafficking - Victims Under Age 21

This bill establishes that the current statutory prohibition and penalties for human trafficking of a minor apply to a victim who is younger than 21 years old.

Fiscal Summary

State Effect: Potential minimal increase in general fund revenues and expenditures due to the bill's expanded application of current monetary and incarceration penalties.

Local Effect: Potential minimal increase in local revenues from fines imposed in circuit court cases due to the bill's expanded application of current statutory penalties. Expenditures are not affected.

Small Business Effect: None.

Analysis

Current Law: The Criminal Law Article defines a "minor" as an individual younger than 18 years old.

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, 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.

In general, 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. In a prosecution for human trafficking of a minor, it is not a defense that the defendant did not know the age of the victim.

The felony human trafficking penalty also applies to a person who knowingly takes or detains another person with the intent to use force, threat, coercion, or fraud to compel the other person to marry the person or a third person or perform a sexual act, sexual contact, or vaginal intercourse.

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: According to the Maryland State Commission on Criminal Sentencing Policy (MSCCSP), there were two convictions for misdemeanor human trafficking and one conviction for felony human trafficking (human trafficking of a minor or taking/detaining another person with the intent to use force to compel marriage or perform a sexual act, etc.) in the State's circuit courts during fiscal 2013.

According to the Judiciary, in fiscal 2013, there were at least 28 cases in the District Court involving human trafficking offenses with victims who were minors. There were approximately 229 human trafficking cases with adult victims in the District Court during fiscal 2013. Information is not available as to how many of the adult victims were younger than 21 years old.

Additional Information

Prior Introductions: SB 215 of 2013 passed the Senate as amended and received a hearing in the House Judiciary Committee. No further action was taken. Its cross file, HB 1188 received a hearing in the House Judiciary Committee, but no further action was taken.

Cross File: None. However, SB 78 (Senator Forehand – Judicial Proceedings) is identical.

Information Source(s): Maryland State Commission on Criminal Sentencing Policy, Governor's Office of Crime Control and Prevention, Judiciary (Administrative Office of the Courts), Department of State Police, Office of the Public Defender, Department of Public Safety and Correctional Services, State's Attorneys' Association, Department of Legislative Services

Fiscal Note History: First Reader - February 12, 2014
ncs/kdm

Analysis by: Amy A. Devadas

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