

Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
Third Reader

Senate Bill 912

(Chair, Judicial Proceedings Committee)(By Request -
Maryland Judicial Conference)

Judicial Proceedings

Judiciary

Children in Need of Assistance - Sex Trafficking

This bill alters the definition of “sexual abuse” in provisions of law relating to a “child in need of assistance” (CINA) to include “sex trafficking” of a child, regardless of the victim’s relationship with the alleged abuser. “Sex trafficking” is the recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a child for the purpose of a commercial sex act.

The bill takes effect June 1, 2017.

Fiscal Summary

State Effect: The bill is intended to protect significant federal fund revenues by ensuring that the State is in compliance with federal law, as discussed below. Otherwise, the bill is not anticipated to materially impact the workload or finances of the Judiciary, the Office of the Public Defender, or the Department of Human Resources.

Local Effect: The bill does not materially impact the workload of the circuit courts.

Small Business Effect: None.

Analysis

Current Law: A CINA is a child who requires court intervention because (1) the child has been abused or neglected or has a developmental disability or a mental disorder and (2) the child’s parents, guardian, or custodian are unable or unwilling to provide proper care and attention to the child. Pursuant to the Courts and Judicial Proceedings Article,

“abuse” includes “sexual abuse.” “Sexual abuse” is any act that involves sexual molestation or sexual exploitation of a child by a parent or other person who has permanent or temporary care or custody or responsibility for supervision of a child, or by any household or family member. Sexual abuse includes (1) allowing or encouraging a child to engage in obscene or pornographic photography, films, poses, or similar activities or prostitution; (2) human trafficking; (3) incest; (4) rape; (5) sexual offense in any degree; (6) sodomy; and (7) unnatural or perverted sexual practices.

Background: The Judiciary advises that the bill is intended to allow the juvenile court to have jurisdiction over a victim of sex trafficking regardless of who the trafficker is, or even without knowing the identity of the trafficker. In addition, the federal Justice for Victims of Trafficking Act of 2015 requires states receiving federal funds under the Child Abuse Prevention and Treatment Act (CAPTA) to take specific steps to address sex trafficking. By May 29, 2017, in order to be in compliance with CAPTA, states must consider a child to be a victim of child abuse and neglect and of sexual abuse if the child is identified by a State or local agency as being a victim of sex trafficking or a victim of severe forms of trafficking in persons. The proposed definition of sex trafficking in this bill is identical to the federal definition. The State receives more than \$450,000 annually in federal funds through CAPTA. This funding is distributed to all 24 local departments of social services to support child protective services programs that benefit at-risk families and children.

The bill aligns with two emergency Administration bills introduced this session (Senate Bill 308/House Bill 632). Those bills propose substantially similar changes to the definition of “sexual abuse” in provisions of law regarding child abuse and neglect reporting within the Family Law Article, in order to ensure compliance with the federal law provisions as discussed above.

Additional Information

Prior Introductions: None.

Cross File: HB 1219 (Chair, Judiciary Committee)(By Request - Maryland Judicial Conference) - Judiciary.

Information Source(s): Department of Human Resources; Judiciary (Administrative Office of the Courts); U.S. Congress; Department of Legislative Services

Fiscal Note History: First Reader - February 22, 2017
md/kdm Third Reader - March 15, 2017

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