

Department of Legislative Services
Maryland General Assembly
2020 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 231

(Senator Lee, *et al.*)

Judicial Proceedings

Judiciary

**Sexual Solicitation of a Minor - Solicitation Through Parent, Guardian, or
Custodian - Prohibition and Penalties**

This bill adds to the existing crime of sexual solicitation of a minor by prohibiting a person from knowingly soliciting the consent of a parent, guardian, or custodian of a minor, or a law enforcement officer posing as a parent, guardian, or custodian of a minor, to engage in activities with the minor that would be unlawful for the person to engage in under the following prohibitions with the intent to commit any of these crimes: (1) rape in the second degree; (2) sexual offense in the third degree; (3) engaging in prostitution; (4) receiving the earnings of a prostitute; (5) abduction of a child younger than age 16 for the commission of a sexual crime; (6) procuring or soliciting prostitution; or (7) maintaining a house of prostitution. The bill applies the existing statutory penalty to a first offense and establishes a maximum penalty for a second or subsequent offense of imprisonment for 20 years and/or a fine of \$50,000.

Fiscal Summary

State Effect: Minimal increase in general fund expenditures due to the bill's penalty provisions. Revenues are not affected.

Local Effect: Minimal increase in local revenues due to the bill's penalty provisions. Expenditures are not affected.

Small Business Effect: None.

Analysis

Current Law: “Solicit” means to command, authorize, urge, entice, request, or advise a person by any means, including (1) in person; (2) through an agent or agency; (3) over the telephone; (4) through any print medium; (5) by mail; (6) by computer or Internet; or (7) by any other electronic means.

A person may not knowingly solicit a minor, or a law enforcement officer posing as a minor, to engage in activities that would be unlawful for the person to engage in under the laws on (1) rape in the second degree; (2) sexual offense in the third degree; (3) engaging in prostitution; (4) receiving the earnings of a prostitute; (5) abduction of a child younger than age 16 for the commission of a sexual crime; (6) procuring or soliciting prostitution; or (7) maintaining a house of prostitution, with the intent to commit any of these crimes. Violators are guilty of a felony, punishable by imprisonment for up to 10 years and/or a fine of up to \$25,000.

For purposes of determining jurisdiction, a violation is considered to be committed in the State if the solicitation (1) originated in the State or (2) is received in the State.

Background: The Department of Public Safety and Correctional Services advises that during fiscal 2019, 10 inmates were received with one or more offenses relating to sexual solicitation of a minor. The Division of Parole and Probation had 25 new offenders start supervision for an offense relating to sexual solicitation of a minor.

State Expenditures: General fund expenditures increase minimally as a result of the bill’s penalty provisions due to more people being committed to State correctional facilities and for potentially longer periods of time. The number of people convicted of this proposed crime and sentenced as repeat offenders is expected to be minimal.

Persons serving a sentence longer than 18 months are incarcerated in State correctional facilities. Currently, the average total cost per inmate, including overhead, is estimated at \$3,700 per month. Persons serving a sentence of one year or less in a jurisdiction other than Baltimore City are sentenced to local detention facilities. For persons sentenced to a term of between 12 and 18 months, the sentencing judge has the discretion to order that the sentence be served at a local facility or a State correctional facility. The State provides assistance to the counties for locally sentenced inmates and for (1) inmates who are sentenced to and awaiting transfer to the State correctional system; (2) sentenced inmates confined in a local detention center between 12 and 18 months; and (3) inmates who have been sentenced to the custody of the State but are confined in or who receive reentry or other prerelease programming and services from a local facility.

The State does not pay for pretrial detention time in a local correctional facility. Persons sentenced in Baltimore City are generally incarcerated in State correctional facilities. The Baltimore Pretrial Complex, a State-operated facility, is used primarily for pretrial detentions.

Local Revenues: Revenues increase minimally as a result of the bill's monetary penalty provisions from cases heard in the circuit courts.

Additional Information

Prior Introductions: None.

Designated Cross File: HB 246 (Delegate Pippy, *et al.*) - Judiciary.

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

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