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FISCAL AND POLICY NOTE
First Reader

House Bill 952
Judiciary

(Delegate Griffith, *et al.*)

Juvenile Sex Offender Registry - Qualifying Offenses and Access

This bill adds the following offenses under the Criminal Law Article to the list of sexual offenses for which a person adjudicated delinquent is required to be included in the juvenile sex offender registry: § 3-307 (*all* third-degree sexual offenses—certain offenses already require registration); § 3-308 (fourth-degree sexual offense); § 3-309 (first-degree attempted rape); § 3-310 (second-degree attempted rape); § 3-602 (sexual abuse of a minor); § 3-902 (visual surveillance with prurient intent), if the victim is a minor; and § 11-207 (child pornography), if the victim does not have knowledge of or does not consent to the production or distribution of the child pornography. The bill also (1) adds access to a court record by law enforcement or a local school superintendent or the superintendent’s designee for purposes of the juvenile sex offender registry as a specified exception to the general prohibition on access to juvenile court records; (2) authorizes the local school superintendent or the superintendent’s designee to access to the registry; (3) repeals a requirement that a person be at least age 14 at the time the delinquent act was committed in order to be included in the registry; and (4) specifies that registration requirements terminate when the juvenile registrant reaches age 18, if the juvenile court’s jurisdiction has otherwise been terminated.

Fiscal Summary

State Effect: The bill does not materially affect State operations or finances.

Local Effect: Potential increase in expenditures for local school systems to provide out-of-school instruction to registrants, as discussed below. No effect on local revenues.
This bill may impose a mandate on a unit of local government.

Small Business Effect: None.

Analysis

Current Law:

Registry of Juvenile Sex Offenders

The State maintains a registry of juvenile sex offenders that is accessible only by law enforcement personnel for law enforcement purposes. A person must be included in the registry of juvenile sex offenders if (1) the person has been adjudicated delinquent for an act that, if committed by an adult, would constitute a violation of specified sexual offenses in the Criminal Law Article and (2) the person was a minor who was at least age 14 at the time the delinquent act was committed. When the juvenile court's jurisdiction over the juvenile registrant terminates, the juvenile registrant must be removed from the registry.

The qualifying offenses for inclusion in the juvenile sex offender registry are:

- § 3-303 (first-degree rape), § 3-304 (second-degree rape), or § 3-307(a)(1) or (2) (specified third-degree sexual offenses); or
- § 3-305 (first-degree sexual offense) or § 3-306 (second-degree sexual offense) of the Criminal Law Article as those sections existed before October 1, 2017.

Education of Registered Sex Offenders

Subject to limited exceptions, § 11-722 of the Criminal Procedure Article prohibits a sex offender registrant or juvenile registrant from knowingly entering onto real property that is used for public or nonpublic elementary or secondary education or on which is located certain child care homes or a licensed child care institution, as specified by law. As a result, each local school board must develop and adopt a policy that enables a registered sex offender who is a student to receive an education. The State Board of Education must develop and adopt guidelines and a model policy to assist local school boards with the development of their respective policies.

Registered sex offenders who are students may receive an education in any of the following locations:

- a location other than a public or nonpublic elementary or secondary school by participating in (1) a Home and Hospital Teaching Program for Students or (2) a program approved by the local school board, as specified;
- a Regional Institute for Children and Adolescents; or
- a nonpublic educational program, as specified.

Home and Hospital Instruction

Under State regulations, local school systems must make instructional services available to students who are unable to participate in their school due to a physical or emotional condition, including but not limited to kidney failure, cancer, asthma, cystic fibrosis, sickle cell anemia, depression, and bipolar disorder. Instructional services must be available to all students during convalescence or treatment time in a medical institution or therapeutic treatment center and at the student's place of residence. Each local school system must determine the manner in which instructional services are delivered, develop safety procedures, and develop a review process to resolve any disagreement that arises. Instructional services must be delivered by an individual with at least a bachelor's degree. Regulations further specify options for the delivery of instruction and requirements for the duration of instruction.

Virtual Schools

Chapter 804 of 2023 defines a virtual school as a public school established by a local board or multiple local boards that uses one or more technologies to deliver instruction to its students entirely or primarily online and in which students and instructors participate remotely from separate locations. It authorizes local school systems, subject to the approval of the Maryland State Department of Education (MSDE), to establish one virtual school for the elementary, middle, and high school grade bands. Chapter 804 includes additional requirements for teachers employed by virtual schools, students enrolled in virtual schools, and for curricula and services provided by virtual schools. MSDE can revoke approval of a virtual school under specified conditions.

Confidentiality of Juvenile Court Records

A court record pertaining to a child is confidential and its contents may not be divulged, by subpoena or otherwise, except by order of the court upon a showing of good cause, or as specified in §§ 7-303 (arrest for a reportable offense) and 22-309 (repealed – applied to juvenile services educational programs) of the Education Article. Access is also permitted for specified purposes that generally pertain to proceedings involving or services for the child.

Local Expenditures: The fiscal impact of the bill on local school systems varies by jurisdiction and depends on (1) the number of juvenile sex offender registrants within a school system, including individuals identified as registrants and individuals subject to registration as a result of the bill; (2) the additional length of time students remain on the juvenile sex offender registry under the bill (which subjects them to out-of-school instruction requirements); and (3) the ability of a school system to provide out-of-school instruction to these registrants with existing resources. According to news reports, the

Department of Public Safety and Correctional Services, which maintains the registry, reported that 112 individuals appeared on the juvenile sex offender registry statewide as of December 15, 2024.

Generally, the bill facilitates local school systems' compliance with statutes that prohibit juvenile registrants from attending in-person school by granting local superintendents access to view the juvenile registry. Because the registry of juvenile sex offenders is confidential and accessible *only* to law enforcement for law enforcement purposes, and juvenile court records are subject to strict confidentiality requirements, it is difficult for schools to know which students are technically prohibited from in-person attendance.

Depending on existing resources, expenditures may increase for local school systems to provide out-of-school instruction to students identified as registrants or added to the registry under the bill and students who remain on the registry for longer time periods under the bill. Virtual learning, currently allowed under State law, may address compliance with the bill. There are 24 local education agencies in the State. For context, MSDE reported there were 10 elementary, 15 middle school, 18 high school, 11 all school levels, and 19 any school level virtual programs offered by local education agencies in the State during the 2023-2024 school year.

Montgomery County Public Schools and Prince George's County Public Schools do not anticipate a fiscal impact from the bill. However, Baltimore City Public Schools advises that the bill's expansion of registration-eligible offenses may place additional burdens on the school system to identify and staff alternative placements for students.

Additional Comments: While the bill adds violations of § 3-307(a)(3) through (a)(5) to the offenses for which *juvenile* sex offender registration is required, § 3-307(a)(4) and (5) require that the alleged perpetrator be *at least age 21*.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts); Maryland State Department of Education; Baltimore City Public Schools, Montgomery County Public Schools; Prince George's County Public Schools; Fox 45 News; Department of Legislative Services

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