

Unfavorable Response to HB 1484 Child Sex Offenders: Plea Agreements and Places for Children

Families Advocating Intelligent Registries (FAIR) seeks rational, constitutional sexual offense laws and policies. There are several serious legal reasons to vote “no” on HB1484.

Illegality of Eliminating Plea Agreements

HB1484 would prohibit plea agreements that result in the dismissal or nolle prosequi of any charge relating to human trafficking when the offense is committed against a minor. **There are serious constitutional and practical deficiencies** associated with this approach.

Plea bargains resolve more than 95% of all criminal charges in Maryland.¹ This figure illustrates that plea bargaining is not a marginal practice in Maryland's criminal justice system; it is the normal outcome for most cases. If the court finds that a factual basis for the plea is lacking or otherwise finds the plea agreement deficient, then its options are as specified in Rules 4-242 and 4-243. A statutory ban on certain plea agreements would affect the resolution of the overwhelming majority of cases, not just isolated situations.

As an example, if an individual is facing multiple criminal charges against a minor (one of which is human trafficking), the prosecutor would lose all discretion and effectively be forced to pursue a complicated and difficult human trafficking charge to trial when the accused may otherwise be willing to plead guilty to other charges requiring substantial terms of incarceration or other penalties. Requiring pursuit of the single human trafficking charge in such a case would be **arbitrary, a waste of prosecutorial and judicial resources, and risk a significant loss at trial**. It could also **force child victims to testify**, whereas a plea agreement would have provided justice for both the victim and society without the need to relive a trauma.

Significantly, the bill raises a constitutional question regarding **Legislative interference into Executive functions**. The prosecution of cases, including decisions of charging, dismissal and nolle prosequi, is an Executive function. It is likely that this Bill, if it passes, will be challenged on Constitutional grounds and be found to be invalid.

Instead of a blanket prohibition against plea agreements in these cases, **one alternative might be** to require that a prosecutor who dismisses a charge in these cases be required to place on the record the reason(s) for the dismissal, thereby assuring that the judge in the case has an opportunity to consider this in their assessment of whether to accept the pending plea agreement.

Unconstitutional Location Restrictions

This section of the bill relies heavily on technical violations rather than new criminal conduct, shifting enforcement toward monitoring presence rather than addressing demonstrable risk. By making mere presence a standalone felony, the measure is punitive rather than regulatory, increasing its vulnerability to ex post facto claims if applied retroactively.

HB 1484's prohibition on entering any location "specifically intended to be used or visited by minors" is **unconstitutionally vague and overbroad** and presents logistical challenges. That language could include parks, libraries, churches, community centers, and other mixed-use public spaces, leaving individuals without clear notice of where they may lawfully go. FAIR is struggling with the breadth and meaning of the terms used. Does it include public buses because they have a special rate for school children? Does it include restaurants with a section of their menu designated for children? Does it include gathering spaces in condominium buildings where a registered individual resides with their family and another family resides elsewhere in the building?

The potential scope of the provision is breath-takingly unclear. **It would be virtually impossible for the person subject to the requirement to understand how the term is applied, making it legally indefensible.** On its face, it is unclear if the felony provision might apply to an individual who was registered at one point in the past, but whose term of registration has ended – another ambiguity that will certainly be challenged

Because the restriction is categorical, automatic, and effectively lifetime without regard to offense severity, time since conviction, rehabilitation, or individualized risk, it invites **due process and proportionality challenges.** There is also no prospective limitation, meaning that it runs afoul of the state constitution's restriction on **ex post facto disabilities and restraints.**

Practically, the bill interferes with employment, transportation, religious participation, and ordinary family life, with no exceptions for emergencies, work, or court-approved contact. Its rigidity heightens the likelihood of constitutional litigation on multiple grounds while risking increased instability—an outcome that may undermine, rather than strengthen, long-term public safety.

Imposition of residency and location restriction laws in other states has proven not to enhance public safety.ⁱ Instead, they have been shown to be an unnecessary burden on law enforcement resources and to disrupt rehabilitation efforts.

For these reasons FAIR urges the committee to vote NO on this bill.

Sincerely,



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Families Advocating Intelligent Registries

ⁱ Maryland State Commission on Criminal Sentencing Policy, Annual Report, 2018

ⁱⁱ FAIR would be happy to share with the Committee the over 30-years of research and experience on this point.