

**Department of Legislative Services**  
Maryland General Assembly  
2017 Session

**FISCAL AND POLICY NOTE**  
**First Reader**

Senate Bill 271

(Senator Lee, *et al.*)

Judicial Proceedings

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**Criminal Law - Prostitution and Assignment - Penalties**

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This bill alters the penalties for three prostitution-related offenses under § 11-306 of the Criminal Law Article.

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**Fiscal Summary**

**State Effect:** Minimal decrease in general fund revenues from fines imposed in the District Court. Minimal decrease in general fund expenditures for the Department of Public Safety and Correctional Services (DPSCS) due to the bill's penalty provisions.

**Local Effect:** Potential minimal decrease in local revenues from fines imposed in the circuit courts. Minimal decrease in local incarceration expenditures due to the bill's penalty provisions.

**Small Business Effect:** None.

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**Analysis**

**Bill Summary:** Under the bill, the penalties for the offenses listed under § 11-306 of the Criminal Law Article are as featured in **Exhibit 1**.

**Exhibit 1**  
**Penalties for Violations of § 11-306 of the Criminal Law Article under the Bill**

<b>Offense</b>	<b>Current Penalty</b>	<b>Penalty under the Bill</b>
Knowingly engage in prostitution or assignation by any means	Imprisonment for up to one year and/or a maximum fine of \$500	Imprisonment for up to 90 days and/or a maximum fine of \$250
Knowingly keep, set up, occupy, maintain, or operate a building, structure, or conveyance for prostitution or assignation	Imprisonment for up to one year and/or a maximum fine of \$500	Imprisonment for up to 90 days and/or a maximum fine of \$250
Knowingly allow a building, structure, or conveyance owned or under the person's control to be used for prostitution or assignation	Imprisonment for up to one year and/or a maximum fine of \$500	Same
Knowingly allow or agree to allow a person into a building, structure, or conveyance for prostitution or assignation	Imprisonment for up to one year and/or a maximum fine of \$500	Same
Knowingly procure or solicit, or offer to procure or solicit, for prostitution or assignation	Imprisonment for up to one year and/or a maximum fine of \$500	Imprisonment for up to 90 days and/or a maximum fine of \$500

Source: Department of Legislative Services

**Current Law:** Under § 11-306 of the Criminal Law Article, a person may not knowingly (1) engage in prostitution or assignation by any means; (2) keep, set up, occupy, maintain, or operate a building, structure, or conveyance for prostitution or assignation; (3) allow a building, structure, or conveyance owned or under the person's control to be used for prostitution or assignation; (4) allow or agree to allow a person into a building, structure, or conveyance for prostitution or assignation; or (5) procure or solicit, or offer to procure or solicit, for prostitution or assignation. A person who violates any of those prohibitions is guilty of prostitution, a misdemeanor punishable by imprisonment for up to one year and/or a \$500 maximum fine.

Chapter 357 of 2015 established that in a prosecution for a charge relating to prostitution under § 11-306 of the Criminal Law Article, it is an affirmative defense of duress if the defendant committed the act as a result of being a victim of an act committed by another person who was charged with violating the prohibition against human trafficking under federal law or § 11-303 of the Criminal Law Article. A defendant is prohibited from asserting the affirmative defense unless the defendant notifies the State's Attorney of the defendant's intention to assert the defense at least 10 days prior to trial.

**Background:** According to the Judiciary, there were 1,978 violations (charges filed) in the District Court for violations of § 11-306 of the Criminal Law Article during fiscal 2016. According to the Maryland State Commission on Criminal Sentencing Policy, eight individuals were convicted of violating § 11-306 of the Criminal Law Article in the circuit courts during fiscal 2016.

**State Revenues:** General fund revenues decrease minimally from fines imposed in the District Court due to the bill's decrease in the monetary penalties for specified prostitution-related offenses.

According to the Judiciary, \$23,925 in fines were issued for offenses under § 11-306 of the Criminal Law Article in the District Court during fiscal 2015. However, because all of the offenses under § 11-306 have the same offense code, information is not available on the amount of fines imposed in the District Court for the specified offenses with monetary penalties that are decreased by the bill.

**State Expenditures:** General fund expenditures for DPSCS decrease minimally due to the bill's decrease in the maximum incarceration penalties for specified prostitution-related offenses.

Generally, persons serving a sentence of one year or less in a jurisdiction other than Baltimore City are sentenced to a local detention facility. The Baltimore Pretrial Complex, a State-operated facility, is used primarily for pretrial detentions.

**Local Expenditures:** Local incarceration expenditures decrease minimally due to the bill's reduction of existing incarceration penalties.

Counties pay the full cost of incarceration for people in their facilities for the first 12 months of the sentence. Per diem operating costs of local detention facilities have ranged from approximately \$60 to \$160 per inmate in recent years.

## Additional Information

**Prior Introductions:** None.

**Cross File:** None.

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

**Fiscal Note History:** First Reader - February 6, 2017  
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