

Department of Legislative Services
Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 719

(Senator Benson)

Judicial Proceedings

Criminal Law - Crimes Against Minors - Sensitive Locations

This bill prohibits a person from committing a felony against a victim who is a minor within five miles of specified locations. Violators are guilty of a felony punishable by imprisonment for up to 15 years for an adult offender or imprisonment for up to 5 years for a minor offender. A sentence imposed for this violation must be separate from and consecutive to a sentence imposed by the court for any crime based on the act establishing the violation.

Fiscal Summary

State Effect: Potential significant increase in general fund expenditures, beginning in the out-years, due to the bill's incarceration penalties, as discussed below. Revenues are not materially affected.

Local Effect: The bill is not expected to materially affect local finances or operations.

Small Business Effect: None.

Analysis

Bill Summary: A person may not commit a felony against a victim who is a minor within five miles of a (1) public or private elementary, vocational, or secondary school; (2) public or private college, community college, or university; (3) site where a school-sponsored activity is being conducted; (4) playground or housing facility owned by a public housing authority; (5) public or private youth center; (6) public park; (7) public playground; (8) public swimming pool; or (9) video arcade.

Current Law: A wide range of offenses are considered felonies. Listed below are examples of felonies that specifically involve victims who are minors.

Crimes Against Minors

Sexual Crimes: Title 3, Subtitle 3 of the Criminal Law Article establishes numerous sexual offenses. Rape in the first degree, rape in the second degree, sexual offense in the third degree, continuing course of conduct with a child, and sexual solicitation of a minor are felonies with provisions that specifically apply to situations involving a victim who is a minor.

Abduction of Child Younger Than Age 16: A person is prohibited from committing the following acts for purposes of committing a crime under Title 3, Subtitle 3 of the Criminal Law Article (sexual crimes): (1) persuading or enticing or aiding in the persuasion or enticement of an individual younger than age 16 from the individual's home or from the custody of the individual's parent or guardian or (2) knowingly secreting or harboring or aiding in the secreting or harboring of an individual younger than age 16 who has been persuaded or enticed away from home or away from the custody of a parent or guardian. Violators are guilty of a felony and subject to imprisonment for up to 25 years and/or a maximum fine of \$5,000.

Sex Trafficking of a Minor: Under § 3-1102(b) of the Criminal Law Article, a person who commits sex trafficking involving a victim who is a minor (defined as an individual younger than age 18) or with the use of or intent to use force, threat, coercion, or fraud is guilty of a felony and subject to imprisonment for up to 25 years and/or a maximum fine of \$15,000.

Child Kidnapping: Child kidnapping is a felony punishable by imprisonment for up to 20 years or 30 years, depending on the circumstances.

Sale of Minor: A person is prohibited from selling, bartering, or trading (or offering to sell, barter, or trade) a minor for money, property, or anything else of value. Violators are guilty of a felony punishable by imprisonment for up to five years and/or a \$10,000 maximum fine.

Sexual Abuse of a Minor: Sexual abuse of a minor under § 3-602 of the Criminal Law Article is a felony punishable by imprisonment for up to 25 years.

Child Abuse: Under § 3-602 of the Criminal Law Article, first-degree child abuse is a felony punishable by imprisonment for up to 25 years, up to 40 years, or life imprisonment, depending on the circumstances. Second-degree child abuse is a felony punishable by

imprisonment for up to 15 years, 25 years, or life imprisonment, depending on the circumstances.

State Expenditures :

The Department of Public Safety and Correctional Services

General fund expenditures for the Department of Public Safety and Correctional Services increase, perhaps significantly, as a result of the bill's incarceration penalty due to people being committed to State correctional facilities for longer periods of time. However, any such impact is likely to begin in the out-years, as individuals complete their sentences for underlying felonies and commence consecutive sentences imposed under the bill.

The number of people sentenced under the bill cannot be reliably determined at this time and depends on actual sentencing practices. Other than offenses that by their nature involve minor victims or contain age requirements, the State generally does not maintain offense data on the ages of crime victims or detailed geographical data for offenses. However, it should be noted that in densely populated areas, virtually every location is within five miles of a location specified in the bill.

Persons serving a sentence longer than 18 months are incarcerated in State correctional facilities. Currently, the average total cost per incarcerated individual, including overhead, is estimated at \$5,110 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 incarcerated individuals and for (1) incarcerated individuals who are sentenced to and awaiting transfer to the State correctional system; (2) sentenced incarcerated individuals confined in a local detention center between 12 and 18 months; and (3) incarcerated individuals 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.

Office of the Public Defender

The Office of the Public Defender (OPD) advises that the bill increases the number of charges and level of effort in existing OPD felony cases. The Department of Legislative

Services (DLS) advises that OPD can likely absorb the increased level of effort within existing budgeted resources.

Judiciary

The Judiciary advises that the extent of any impact from the bill depends on interpretation of certain ambiguities in the bill. For example, the term “video arcade” is not defined in the bill and is open for interpretation to include a restaurant that happens to contain a few gaming machines. The Judiciary anticipates legal challenges from defendants to such ambiguities requiring extra court time to hold hearings. Thus, to the extent that additional hearings occur under the bill, there is an operational impact on the speed of criminal dockets for the circuit courts. DLS advises that this operational impact is unlikely to materially affect the finances of the Judiciary.

Additional Information

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

Designated Cross File: HB 963 (Delegates Taveras and Pena-Melnyk) - Judiciary.

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

Fiscal Note History: First Reader - February 21, 2024
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