

**Department of Legislative Services**  
Maryland General Assembly  
2019 Session

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

House Bill 1084  
Judiciary

(Delegate Cain, *et al.*)

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**Criminal Law - Human Trafficking - Felony**

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This bill establishes that all violations of the State’s prohibition on human trafficking are felony offenses by reclassifying a violation of § 11-303(a) of the Criminal Law Article (human trafficking of an adult – in general) from a misdemeanor to a felony. The bill retains the current penalties for human trafficking offenses.

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**Fiscal Summary**

**State Effect:** The bill is not expected to materially affect State finances, as discussed below.

**Local Effect:** The bill is not expected to materially affect local finances, as discussed below.

**Small Business Effect:** None.

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**Analysis**

**Current Law:** Section 11-303 of the Criminal Law Article prohibits a person from engaging in human trafficking. The penalties for the offense vary based on the type of victim and the circumstances involved. Section 11-303(b) of the Criminal Law Article prohibits a person from engaging in the human trafficking of a minor or human trafficking through compelled marriage or the performance of specified acts.

### *Human Trafficking of an Adult (In General)*

Under the human trafficking prohibition, a person may not knowingly:

- take or cause another to be taken to any place for prostitution;
- place, cause to be placed, or harbor another in any place for prostitution;
- persuade, induce, entice, or encourage another to be taken to or placed in any place for prostitution;
- receive consideration to procure for or place in a house of prostitution or elsewhere another with the intent of causing the other to engage in prostitution or assignation;
- engage in a device, scheme, or continuing course of conduct intended to cause another to believe that if the other did not take part in a sexually explicit performance, the other or a third person would suffer physical restraint or serious harm; or
- destroy, conceal, remove, confiscate, or possess an actual or purported passport, immigration document, or government identification document of another while otherwise violating or attempting to commit these acts.

In general, a person who commits human trafficking involving an adult victim is guilty of a misdemeanor and subject to imprisonment for up to 10 years and/or a maximum fine of \$5,000. While a misdemeanor generally carries a 1-year statute of limitations, the misdemeanor offense of human trafficking is subject to prosecution at any time.

### *Human Trafficking of a Minor*

Under § 11-303(b) of the Criminal Law Article, a person who commits human trafficking involving a victim who is a minor (defined as an individual younger than age 18) is guilty of a felony and subject to imprisonment for up to 25 years and/or a maximum fine of \$15,000. In a prosecution for human trafficking of a minor, it is not a defense that the defendant did not know the age of the victim.

### *Human Trafficking (Compelled Marriage or Performance of Specified Acts)*

Section 11-303(b) of the Criminal Law Article also applies the felony human trafficking penalty to a person who knowingly takes or detains another person with the intent to use force, threat, coercion, or fraud to compel the other person to marry the person or a third person or perform a sexual act, sexual contact, or vaginal intercourse.

The District Court has concurrent jurisdiction with the circuit courts over the crime of felony human trafficking under § 11-303(b).

### *Human Trafficking (Financial Benefit or Aiding and Abetting)*

A person who knowingly aids, abets, or conspires in the violation of human trafficking laws or knowingly benefits financially from ventures or activities in violation of State human trafficking laws is subject to the same penalties imposed on a person who violated the applicable statute.

**Background:** Information is not readily available on the number of misdemeanor human trafficking cases filed in the District Court and the circuit courts during fiscal 2018. However, the Judiciary provided the information shown below on human trafficking violations and guilty dispositions in the District Court and the circuit courts during fiscal 2017. A violation is a charge filed with the court. It is not a conviction, and one person may be the subject of multiple violations.

- Misdemeanor Human Trafficking, § 11-303(a): 77 violations were filed in the District Court, with 0 guilty dispositions; 11 guilty dispositions in the circuit courts; and
- Misdemeanor Financial Benefit, Aiding or Abetting, § 11-303(e): 70 violations were filed in the District Court, with 0 guilty dispositions.

According to the Maryland Sentencing Guidelines Database, the Maryland State Commission on Criminal Sentencing Policy received information for 15 individuals sentenced to 23 counts total for misdemeanor human trafficking under § 11-303(c)(1) of the Criminal Law Article in the State's circuit courts during fiscal 2018.

**State Revenues:** Any decrease in general fund revenues from fines in cases shifted from the District Court to the circuit courts is not expected to materially affect State finances.

**State Expenditures:** The bill is not expected to materially affect State expenditures or District Court caseloads. While the bill does not change incarceration penalties, changing crimes from misdemeanors to felonies means that (1) such cases are likely to be filed in the circuit courts rather than the District Court and (2) some persons may eventually serve longer incarcerations due to more stringent penalty provisions, applicable to some offenses for prior felony convictions. Based on fiscal 2017 statistics, the bill may shift as many as 147 cases from the District Court to the circuit courts. It is not known whether such a prospective shift may spur more plea bargains and affect actual sentencing practices for this offense.

The bill does not amend §§ 4-301 and 4-302 of the Courts and Judicial Proceedings Article, which grant the District Court concurrent jurisdiction with the circuit courts over felony human trafficking violations under § 11-303(b). Thus, those cases may continue to be filed in the District Court.

The bill does not affect the caseloads of the Office of the Public Defender (OPD), but may result in an increase in the amount of time OPD attorneys spend on these cases. However, given the number of cases affected by the bill, any increase in work hours associated with the bill can be addressed with existing budgeted resources.

**Local Revenues:** Any increase in revenues from fines imposed in cases shifted from the District Court to the circuit courts is not expected to materially affect local finances.

**Local Expenditures:** The bill is not expected to materially affect local expenditures or circuit court caseloads. The Judiciary anticipates a minimal impact on the trial courts as a result of the bill. The State's Attorneys' Association advises that the bill has no effect on prosecutors.

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### **Additional Information**

**Prior Introductions:** HB 6 of 2018, a similar bill, received an unfavorable report from the House Judiciary Committee

**Cross File:** None.

**Information Source(s):** Montgomery, Washington, and Worcester counties; Maryland Association of Counties; City of Laurel; 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 State Police; Department of Legislative Services

**Fiscal Note History:** First Reader - March 4, 2019  
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Analysis by: Amy A. Devadas

Direct Inquiries to:  
(410) 946-5510  
(301) 970-5510