

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE
Revised

House Bill 501

(Delegate Patterson, *et al.*)

Health and Government Operations

Education, Health, and Environmental Affairs

Family Law - Unregistered Family Day Care Homes and Unlicensed Child Care
Centers - Penalties

This bill increases the maximum misdemeanor penalties for individuals convicted of operating: (1) a family day care home without a Department of Human Resources (DHR) Child Care Administration (CCA) registration; and (2) a child care center without a CCA license. An individual who operates a family day care home without registration or a child care center without a license is guilty of a misdemeanor and on conviction is subject to a penalty of up to: (1) \$2,500 for the first violation; (2) \$5,000 for the second violation; and (3) one year imprisonment or \$5,000, or both, for a third and subsequent violation.

Fiscal Summary

State Effect: Potential minimal increase in general fund revenues due to the bill's misdemeanor penalty provisions. Potential increase in general fund expenditures to reimburse counties for inmate costs due the bill's incarceration penalty.

Local Effect: Potential minimal increase in revenues and expenditures due to the bill's misdemeanor penalty provisions.

Small Business Effect: Meaningful for violators who are found guilty of a misdemeanor offense and are charged a fine and/or are imprisoned.

Analysis

Current Law: An individual who operates a family day care home without CCA registration or a child care center without a CCA license is guilty of a misdemeanor and

on conviction is subject to a maximum \$1,000 fine. Misdemeanor fines are deposited into the general fund.

A person who violates any laws related to family day care homes or any rule or regulation adopted under the law is subject to a civil penalty of up to: \$250 for the first violation; \$500 for the second violation; and \$1,000 for the third and each subsequent violation. Each day a violation occurs is a separate violation. The maximum total amount of civil penalties that may be imposed is \$5,000. Any such civil penalties collected must be deposited into the general fund. Any person served with a citation may appeal to the Office of Administrative Hearings.

A person who violates any law related to child care centers or any rule or regulation adopted under the law is subject to a civil penalty of up to \$1,000 per violation. Each day a violation occurs is a separate violation. The total amount of civil penalties that may be imposed in an action is \$5,000.

Background: During 2004, CCA recorded 10 cases of illegal provision of child care (criminal and civil violations). CCA advises that in a majority of such cases fines are not imposed.

Generally, with certain statutory exceptions, misdemeanor offenses are heard in the District Court. All jury trials are heard in the circuit courts.

In fiscal 2004, 2,663 facilities in Maryland were regulated by CCA as either licensed child care centers or nursery schools and child care programs operated by tax-exempt religious organizations under "Letters of Compliance." In that same fiscal year, there were 10,112 registered family day care homes in the State.

State Revenues: General fund revenues could increase minimally as a result of the bill's monetary penalty provisions from cases heard in the District Court. The number of people convicted of this crime, and who pay a fine, is expected to be minimal.

State Expenditures: General fund expenditures could increase minimally as a result of the bill's incarceration penalty due to increased payments to counties for reimbursement of inmate costs and more people being committed to Division of Correction (DOC) facilities. The number of people convicted of this proposed crime is expected to be minimal.

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 State reimburses counties for part of their incarceration costs, on a per diem basis, after a person has served 90 days. State per diem reimbursements for fiscal 2006 are estimated to range from \$17 to

\$65 per inmate depending upon the jurisdiction. Persons sentenced to such a term in Baltimore City are generally incarcerated in a DOC facility. Currently, the DOC average total cost per inmate, including overhead, is estimated at \$1,850 per month. This bill alone, however, should not create the need for additional beds, personnel, or facilities. Excluding overhead, the average cost of housing a new DOC inmate (including medical care and variable costs) is \$310 per month.

Local Revenues: Revenues could increase minimally as a result of the bill's monetary penalty provisions from cases heard in the circuit courts. The number of people convicted of this crime, and who pay a fine, is expected to be minimal.

Local Expenditures: Expenditures could increase as a result of the bill's incarceration penalty. Counties pay the full cost of incarceration for the first 90 days of the sentence, plus part of the per diem cost after 90 days. Per diem operating costs of local detention facilities are expected to range from \$33 to \$119 per inmate in fiscal 2006.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Human Resources, Judiciary (Administrative Office of the Courts), Department of Legislative Services

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