

Department of Legislative Services
Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE

House Bill 426
Judiciary

(Delegate Shank, *et al.*)

Justice's Law

This bill increases the maximum imprisonment penalties for first degree child abuse that results in the death of a victim and for a subsequent conviction of child abuse in the first degree that results in the death of the victim from a maximum of 30 years to a maximum of life imprisonment.

Fiscal Summary

State Effect: Minimal. It is assumed that any increased incarceration costs for the Division of Correction stemming from the bill would not be significant, and would not begin to be realized for at least five years. Revenues would not be affected.

Local Effect: Minimal. Any increased caseload for the circuit courts resulting from the bill could be handled with existing budgeted resources.

Small Business Effect: None.

Analysis

Current Law: Chapter 167 of 2003 established the crimes of child abuse in the first and second degrees and established terms of imprisonment for those crimes, among other provisions. Chapter 167 provides that a parent or other person who has permanent or temporary care, custody, or responsibility for the supervision of a minor may not cause abuse resulting in severe physical injury or death to the minor. A violator is guilty of the felony of child abuse in the first degree and on conviction is subject to imprisonment for up to 25 years or, if the violation results in the death of the victim, imprisonment for up to 30 years. A person who violates the child abuse laws after being convicted of a prior

violation of the same provisions is guilty of a felony and is subject to imprisonment for up to 25 years. If the violation results in the death of the victim, the violator is subject to imprisonment for up to 30 years.

Chapter 167 also established that the then existing crime of child abuse is child abuse in the second degree which does not result in serious physical injury to or the death of the victim, and is subject to a maximum term of imprisonment of 15 years.

A sentence may be separate from and consecutive to or concurrent with a sentence for any crime based on the act that establishes the violation.

Background: The bill is named for Justice Christopher Calvin Myers-Cannon, a baby boy who was killed due to severe blunt force trauma in January 2007. The man who was charged in his death was convicted of involuntary manslaughter and first degree child abuse. He was sentenced to 10 years imprisonment for the involuntary manslaughter charge and 30 years imprisonment for first degree child abuse, with 10 years of the child abuse sentence suspended. The sentences are to be served consecutively. Upon release, he must serve 4 years of supervised probation.

DOC advises that there were 46 admissions for child abuse in fiscal 2007. DOC's generic child abuse code does not differentiate by degree. However, based on information submitted to the Maryland Commission on Criminal Sentencing Policy by the circuit courts for convictions occurring from January 1, 2004 to June 30, 2006 (30 months), the following number of individuals was convicted of the covered offenses statewide:

- first degree child abuse – 30
- first degree child abuse, with death of the victim – 13

State Expenditures: General fund expenditures could increase minimally as a result of the bill's changes to incarceration penalties for the affected offenses due to people potentially being committed to DOC facilities for longer periods of time.

Persons serving a sentence longer than 18 months are incarcerated in DOC facilities. Currently, the average total cost per inmate, including overhead, is estimated at \$2,600 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 \$526 per month. Excluding medical care, the average variable costs total \$148 per month.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): State's Attorneys' Association, Judiciary (Administrative Office of the Courts), Office of the Public Defender, Commission on Criminal Sentencing Policy, Department of Public Safety and Correctional Services, *Herald-Mail.com*, Department of Legislative Services

Fiscal Note History: First Reader - February 19, 2008
mcp/jr

Analysis by: Karen D. Morgan

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