

Department of Legislative Services
Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE

House Bill 539
Judiciary

(Delegate Howard)

Crimes - Requirement to Report Death or Disappearance of Minor - Penalties
(Caylee's Law)

This bill creates several reporting requirements regarding the disappearance or death of a minor and imposes criminal penalties for failure to report the disappearance or death of a minor.

Fiscal Summary

State Effect: Minimal increase in general fund expenditures due to the bill's incarceration penalty provisions. Revenues are not affected.

Local Effect: Minimal increase in local revenues and expenditures due to the bill's penalty provisions.

Small Business Effect: None.

Analysis

Bill Summary: Under the bill, a parent or other person who has permanent care or custody or responsibility for the supervision of a minor who is younger than age nine is required to notify the appropriate law enforcement agency that the minor is missing within three hours of becoming aware that the minor is missing. Violators are guilty of a felony and subject to imprisonment for up to 10 years and/or a maximum fine of \$10,000.

A parent or other person who has permanent care or custody or responsibility for the supervision of a minor who is older than age eight must notify the appropriate law enforcement agency that the minor is missing within 12 hours of becoming aware that the

minor is missing. Violators are guilty of a felony and are subject to imprisonment for up to five years and/or a maximum fine of \$5,000.

A parent or other person who has permanent care or custody or responsibility for the supervision of a minor must report the death of a minor to the appropriate law enforcement agency or medical authority within one hour of becoming aware of the death. Violators are guilty of a felony and subject to imprisonment for up to 10 years and/or a maximum fine of \$10,000.

Current Law: A parent, family member, household member, or other person who has permanent or temporary care or custody or responsibility for the supervision of a minor may not neglect a minor. A violator is guilty of the misdemeanor of child neglect and on conviction is subject to maximum penalties of five years imprisonment and/or a \$5,000 fine. A sentence imposed for the crime of child neglect is in addition to any other sentence imposed for a conviction arising from the same facts and circumstances unless the evidence required to prove each crime is substantially identical.

“Neglect” is defined as the intentional failure to provide necessary assistance and resources for the physical needs or mental health of a minor that creates a substantial risk of harm to the minor’s physical health or a substantial risk of mental injury. “Neglect” does not include the failure to provide necessary assistance and resources for the physical needs or mental health of a minor when the failure is due solely to a lack of financial resources or homelessness. “Mental injury” is defined as the substantial impairment of a minor’s mental or psychological ability to function. “Family member” is defined as a relative of a minor by blood, adoption, or marriage. “Household member” means a person who lives with or is a regular presence in a home of a minor at the time of the alleged neglect.

Background: In 2008, Casey Anthony was charged in Florida with the murder of her two-year-old daughter, Caylee, after she waited a month to tell police that the girl was missing and lied to investigators about Caylee’s whereabouts. By the time Caylee’s remains were found, her body was so decomposed that a cause of death could not be determined. During the closely watched trial, which lasted six weeks from May to July 2011, the prosecution argued that Casey murdered her daughter because she wanted her freedom and presented evidence suggesting that Casey had been unbothered by the disappearance of the girl. The lack of physical evidence, however, hindered the prosecution’s case. On July 5, 2011, the jury found Casey Anthony not guilty of murder, aggravated child abuse, and aggravated manslaughter of a child, but guilty of four misdemeanor counts of providing false information to a law enforcement officer.

The acquittal of Casey Anthony on the murder, manslaughter, and child abuse charges led to a public outcry over the perceived miscarriage of justice in the case. Fueled by the

extensive media coverage of the high-profile trial, and legal commentators who suggested that the verdict was incorrect, an online petition calling for federal and state laws to respond to the outcome of the trial gained momentum within hours after the verdict was read. Dubbed “Caylee’s Law,” the legislation proposed in the petition makes it a felony for a parent to fail to report the death of a child within an hour, or fail to report that a child has gone missing within a day.

Legislation in Other States

On January 9, 2012, New Jersey became the first state to enact Caylee’s Law. Under the law, a person with legal custody of a child 13 years of age or younger who fails to report the disappearance of the child to police more than 24 hours after becoming aware of the disappearance is guilty of a fourth degree crime, punishable by up to 18 months imprisonment and a fine of up to \$10,000. The law went into effect immediately.

According to the National Conference of State Legislatures, as of September 19, 2012, 11 states have enacted legislation criminalizing the failure to report a missing or deceased child. Key variations among the bills include the qualifying age of the missing or deceased child, the length of time in which the child’s guardian must report the incident, and the classification of the crime.

State Expenditures: General fund expenditures increase minimally as a result of the bill’s incarceration penalties due to more people being committed to State correctional facilities and increased payments to counties for reimbursement of inmate costs. The number of people convicted of this proposed crime is expected to be minimal. This estimate assumes that law enforcement and prosecutors will not pursue charges when family misunderstandings result in failure to meet the bill’s deadlines.

Persons serving a sentence longer than 18 months are incarcerated in State correctional facilities. Currently, the average total cost per inmate, including overhead, is estimated at \$2,900 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 State inmate (including variable medical care and variable operating costs) is about \$370 per month. Excluding all medical care, the average variable costs total \$180 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. Prior to fiscal 2010, the State reimbursed counties for part of their incarceration costs, on a per diem basis, after a person has served 90 days. Currently, the State provides assistance to the counties for

locally sentenced inmates and for inmates who are sentenced to and awaiting transfer to the State correctional system. A \$45 per diem grant is provided to each county for each day between 12 and 18 months that a sentenced inmate is confined in a local detention center. Counties also receive an additional \$45 per day grant for inmates who have been sentenced to the custody of the State but are confined in 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 City Detention Center, a State-operated facility, is used primarily for pretrial detentions.

Local Revenues: Revenues increase minimally as a result of the bill's monetary penalty provisions from cases heard in the circuit courts.

Local Expenditures: Expenditures increase minimally as a result of the bill's incarceration penalties. Counties pay the full cost of incarceration for people in their facilities for the first 12 months of the sentence. A \$45 per diem State grant is provided to each county for each day between 12 and 18 months that a sentenced inmate is confined in a local detention center. Counties also receive an additional \$45 per day grant for inmates who have been sentenced to the custody of the State but are confined in a local facility. Per diem operating costs of local detention facilities have ranged from approximately \$60 to \$160 per inmate in recent years.

Carroll, Cecil, Montgomery, Queen Anne's, and St. Mary's County advise that the bill does not have a fiscal impact on their jurisdictions. Baltimore County advises that monetary penalties imposed in these cases may increase local revenues. Harford County advises that the only foreseeable impact from the bill is additional training regarding the new law for law enforcement personnel.

Additional Information

Prior Introductions: HB 18 of 2012 received an unfavorable report from the House Judiciary Committee.

Cross File: None.

Information Source(s): Baltimore, Carroll, Cecil, Montgomery, Queen Anne's, and St. Mary's counties; 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; State's Attorneys' Association; National Conference of State Legislatures; Department of Legislative Services

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