

Department of Legislative Services
Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE

House Bill 375
Judiciary

(Delegate Glenn)

Crimes - Elder Abuse or Neglect - Increased Penalties

This bill increases the penalty for felony abuse or neglect of a vulnerable adult, from imprisonment for up to 10 years and/or a \$10,000 maximum fine, to imprisonment for up to 20 years and/or a \$20,000 maximum fine. The bill also increases the penalty for misdemeanor abuse or neglect of a vulnerable adult, from imprisonment for up to 5 years and/or a \$5,000 maximum fine, to imprisonment for up to 10 years and/or a \$10,000 maximum fine.

Fiscal Summary

State Effect: Minimal increase in general fund revenues from District Court cases due to the bill's enhanced monetary penalty provisions. Minimal increase in general fund expenditures due to the bill's enhanced incarceration penalty provisions.

Local Effect: Minimal increase in local revenues due to the bill's enhanced penalty provisions. Expenditures are not affected.

Small Business Effect: None.

Analysis

Current Law: A caregiver, a parent, or other person who has permanent or temporary care or responsibility for the supervision of a vulnerable adult may not cause abuse or neglect of the vulnerable adult that results in death, causes serious physical injury, or involves sexual abuse. The same prohibition applies to a household member or family member.

A violator is guilty of the felony of abuse or neglect of a vulnerable adult in the first degree and subject to maximum penalties of 10 years imprisonment and/or a fine of \$10,000. A sentence imposed under this section must be 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.

Under the second degree prohibition, a caregiver, a parent, or other person who has permanent or temporary care or responsibility for the supervision of a vulnerable adult may not cause abuse or neglect of the vulnerable adult. A household member or family member may not cause abuse or neglect of a vulnerable adult. A violator is guilty of a misdemeanor and subject to maximum penalties of imprisonment for five years and/or a \$5,000 fine. A sentence imposed under this section must be 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. The second degree prohibition does not apply to sexual abuse of a vulnerable adult.

Background: The Maryland State Commission on Criminal Sentencing Policy (MSCCSP) reports that, in fiscal 2013, there were two convictions for first degree abuse or neglect of a vulnerable adult and eight convictions for second degree abuse or neglect of a vulnerable adult in the State's circuit courts. In fiscal 2012, there were seven convictions for the first degree offense and seven convictions for the second degree offense. In fiscal 2011, there were three convictions in the circuit courts for first degree abuse or neglect of a vulnerable adult, with an average sentence of 8.3 years of incarceration. There were also three convictions for second degree abuse or neglect of a vulnerable adult, with an average sentence of 21.7 days incarceration.

In fiscal 2010, there were three convictions in the circuit courts for first degree elder abuse and seven convictions for second degree elder abuse. One of the convictions for first degree elder abuse resulted in incarceration, with a sentence of six years imprisonment. Three of the second degree elder abuse convictions resulted in incarceration, with an average sentence of 3.8 years imprisonment. In fiscal 2009, there were two convictions in the circuit courts of second degree elder abuse and one conviction of first degree elder abuse. The two individuals convicted of second degree elder abuse received an average sentence of 15 months imprisonment. The person convicted of first degree elder abuse was sentenced to 10 years imprisonment.

According to the Judiciary, there were 12 violations of first degree abuse or neglect of a vulnerable adult and 63 violations of second degree abuse or neglect of a vulnerable adult presented to the District Court in fiscal 2013.

State Revenues: General fund revenues may increase minimally as a result of the bill's enhanced monetary penalty provisions from cases heard in the District Court.

State Expenditures: General fund expenditures increase minimally as a result of the bill's enhanced incarceration penalties due to more people being committed to State correctional facilities for longer periods of time. The number of people convicted of the applicable crimes is expected to be minimal.

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 \$3,100 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 health care costs) is about \$735 per month. Excluding all health care, the average variable costs total \$185 per month.

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

Additional Information

Prior Introductions: HB 1260 of 2013 was withdrawn after being scheduled for a hearing in the House Judiciary Committee.

Cross File: SB 177 (Senator Gladden) - Judicial Proceedings.

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, State's Attorneys' Association, Department of Legislative Services

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