

**Department of Legislative Services**  
 Maryland General Assembly  
 2014 Session

**FISCAL AND POLICY NOTE**

Senate Bill 485 (Senator Forehand, *et al.*)  
 Judicial Proceedings

**Juvenile Law - Prohibition Against Continued Detention**

This bill establishes that detention may not be continued beyond emergency detention for a child younger than age 13 unless the child is alleged to have committed (1) murder or attempted murder in the first degree; (2) rape in the first degree; or (3) sexual offense in the first degree.

**Fiscal Summary**

**State Effect:** General fund expenditures increase by \$57,500 in FY 2015, which accounts for the bill’s October 1, 2014 effective date, and by \$76,700 annually thereafter for the Department of Juvenile Services (DJS) to provide alternatives to detention placements.

| (in dollars)   | FY 2015    | FY 2016    | FY 2017    | FY 2018    | FY 2019    |
|----------------|------------|------------|------------|------------|------------|
| Revenues       | \$0        | \$0        | \$0        | \$0        | \$0        |
| GF Expenditure | 57,500     | 76,700     | 76,700     | 76,700     | 76,700     |
| Net Effect     | (\$57,500) | (\$76,700) | (\$76,700) | (\$76,700) | (\$76,700) |

*Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect*

**Local Effect:** None.

**Small Business Effect:** None.

**Analysis**

**Current Law:** Detention refers to the temporary care of children who, pending court disposition, require secure custody for the protection of themselves or the community, in physically restricting facilities. Detention can only be authorized by the court or an

intake officer. A child may be placed in detention prior to a hearing if such action is required to protect the child or others or the child is likely to leave the jurisdiction of the court.

The intake officer or the official who authorized detention must immediately file a petition to authorize continued detention. A hearing on the petition must be held by the next court day, unless extended for up to five days by the court upon good cause shown. Reasonable notice, oral or written, must be given to the child and, if they can be found, the child's parents, guardian, or custodian. An adjudicatory or waiver hearing must be held within 30 days after the date a petition for detention is granted. If a child is detained after an adjudicatory hearing, a disposition hearing must be held no later than 14 days after the adjudicatory hearing. Detention may be extended in increments of not more than 14 days where the petition charges the child with a delinquent act and where the court finds, after a subsequent hearing, that extended detention or community detention is necessary either for the protection of the child or the community.

Detention may not be continued beyond emergency detention or community detention unless, upon an order of court after a hearing, the court has found that such action is required to protect the child or others or the child is likely to leave the jurisdiction of the court. Such an order must contain a written determination of whether or not specified criteria have been met and specify which of the prerequisites noted above exist. If the court has not specifically prohibited community detention, DJS may release the child from detention into community detention and place the child in shelter care or the custody of the child's parent, guardian, custodian, or other person able to provide supervision and care for the child and to return the child to court when required. If a child who has been released by DJS or the court into community detention violates the conditions of community detention and it is necessary to protect the child or others, an intake officer may authorize the detention of the child. DJS must promptly notify the court of a child's release from or return to detention.

“Community detention” is a program monitored by DJS in which a delinquent child or a child alleged to be delinquent is placed in the home of a parent, guardian, custodian, or other fit person, or in shelter care, as a condition of probation or as an alternative to detention. Community detention includes electronic monitoring.

**State Fiscal Effect:** General fund expenditures increase by \$57,532 in fiscal 2015, which accounts for the bill's October 1, 2014 effective date, and by \$76,709 annually thereafter for DJS to provide alternatives to detention placements. This estimate assumes the following:

- four juveniles daily require an alternative to detention placement, which represents the average daily population of juveniles younger than age 13 in detention for fiscal 2013;
- of these four juveniles, two require electronic monitoring at a cost of \$3.42 per day;
- of the four juveniles, two are placed in shelter care at a cost of \$188 per day; and;
- expenditures associated with additional alternative to detention placements are offset by an annual reduction in detention costs of approximately \$63,028.

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### **Additional Information**

**Prior Introductions:** HB 711 of 2013, a similar bill, received a hearing in the House Judiciary Committee, but no further action was taken. Its cross file, SB 732, received a hearing in the Senate Judicial Proceedings Committee, but no further action was taken. HB 978 of 2012, a similar bill, received an unfavorable report from the House Judiciary Committee.

**Cross File:** Although designated as a cross file, HB 407 (Delegate Dumais, *et al.* – Judiciary), is different.

**Information Source(s):** Department of Juvenile Services, Department of Legislative Services

**Fiscal Note History:** First Reader - February 21, 2014  
mam/kdm

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