

Department of Legislative Services
Maryland General Assembly
2015 Session

FISCAL AND POLICY NOTE

House Bill 586
Judiciary

(Delegate Carter, *et al.*)

Judicial Proceedings

**Department of Juvenile Services - Juvenile Court Jurisdiction - Feasibility of
Repeal of Excluded Offenses**

This bill requires the Department of Juvenile Services (DJS), by December 1, 2015, to submit to the General Assembly an assessment of the feasibility of repealing specified provisions of law relating to offenses that are excluded from the jurisdiction of the juvenile court. The feasibility study must include (1) an overview of the population of minors charged as adults, including age, race, and charges; (2) an analysis of the population increases throughout the State's juvenile justice system, including intake, detention, and placement; and (3) an assessment of needs.

Fiscal Summary

State Effect: DJS can use existing resources to complete the required study.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary/Current Law: Generally, the juvenile court has jurisdiction over any child alleged to be delinquent or in need of supervision. However, the juvenile court does not have jurisdiction over (1) a child at least 14 years old alleged to have committed an act which, if committed by an adult, would be a crime punishable by death or life imprisonment; (2) a child at least 16 years old alleged to have violated specified traffic laws; (3) a child at least 16 years old alleged to have violated specified boating laws; (4) a child at least 16 years old alleged to have committed specified violent crimes; or (5) a child

who previously has been convicted as an adult of a felony and is subsequently alleged to have committed an act that would be a felony if committed by an adult. These cases are typically tried in adult criminal court. However, for items (1), (4), and (5) above, the criminal court may transfer the case back to juvenile court if the court determines from a preponderance of the evidence that transfer is in the interest of the child or society and other specified conditions are met. This is often referred to as “reverse waiver.” A reverse waiver is not permitted in some circumstances, such as when the child was previously convicted in an unrelated case excluded from the jurisdiction of the juvenile court or when the alleged crime is murder in the first degree and the accused child was 16 or 17 years of age when the alleged crime was committed.

Pursuant to the bill, DJS must prepare and submit an assessment of the feasibility of repealing items (1), (3), (4), and (5). If these provisions are repealed, the juvenile court’s jurisdiction expands to include jurisdiction over juveniles charged in these types of cases.

Background: Unlike the adult criminal system, the juvenile system is designed to protect public safety while restoring order to the lives of young offenders without a determination of guilt or the imposition of fixed sentences. Historically, one of the principal purposes of the juvenile justice system was to remove from children committing delinquent acts the “taint of criminality” and the consequences of criminal behavior. In 1997, the General Assembly passed legislation adopting a philosophy of juvenile justice known as “balanced and restorative justice.” Balanced and restorative justice requires the juvenile justice system to balance the following objectives for children who have committed delinquent acts: (1) public safety and the protection of the community; (2) accountability of the child to the victim and the community for offenses committed; and (3) competency and character development to assist the child in becoming a productive member of society. As a result, disposition of a juvenile delinquent act may include treatment and education programs that are not available in the adult correctional system.

In making a disposition, the juvenile court may:

- place the child on probation or under supervision in the child’s own home or in the custody or under the guardianship of a relative or other fit person, on terms the court deems appropriate, including community detention;
- commit the child to the custody or guardianship of DJS or other agency on terms that the court considers appropriate, including designation of the type of facility where the child is to be accommodated; or
- order the child or the child’s parents, guardian, or custodian to participate in rehabilitative services that are in the best interest of the child and the family.

If the disposition ordered by the juvenile court includes commitment to DJS for out-of-home placement, the court may recommend the level of care for the child and the type of facility that the court considers appropriate. DJS determines the particular residential facility and program that will best suit the needs of the child, and considers factors including the type of treatment and level of security that is needed. Placement options include (1) family foster care for children whose families cannot appropriately care for them; (2) group homes; (3) independent living programs; (4) residential treatment centers; and (5) treatment facilities providing secure confinement. DJS also operates four youth centers, which provide vocational programming in addition to other services, as well as three other committed residential facilities in Maryland. Additionally, DJS contracts with private providers both in Maryland and out of state to provide services to youth under its care.

Additional Information

Prior Introductions: None.

Cross File: SB 476 (Senator Ramirez, *et al.*) - Judicial Proceedings.

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

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md/kdm

Analysis by: Jennifer K. Botts

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