

Department of Legislative Services
Maryland General Assembly
2016 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 1634
Judiciary

(Delegate Jalisi)

Judicial Proceedings

Task Force to Study the Restraint, Searches, and Needs of Children in the
Juvenile Justice System

This bill establishes the Task Force to Study the Restraint, Searches, and Needs of Children in the Juvenile Justice System, which is to be staffed by the Juvenile Justice Monitoring Unit (JJMU) in the Office of the Attorney General (OAG) and the Office of the Public Defender (OPD). The Governor must designate the chair of the task force. By December 31, 2016, the task force must report its findings and recommendations to the Governor and the General Assembly.

The bill takes effect June 1, 2016, and terminates May 31, 2017.

Fiscal Summary

State Effect: Any expense reimbursements for task force members and staffing costs for OAG and OPD are assumed to be minimal and absorbable within existing budgeted resources.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: The task force must:

- review the policies and practices of the Department of Juvenile Services (DJS) regarding shackling and strip searches of children within the juvenile justice system;
- examine when, by whom, and for what purpose a child in the custody of DJS is strip-searched or shackled;
- determine the capital expenditures that are necessary to address issues regarding the restraint and searches of children within the juvenile justice system; and
- make recommendations regarding changes in policies, practices, or capital expenditures that are necessary to address issues involving the restraint and searches of children within the juvenile justice system.

A member of the task force may not receive compensation but is entitled to reimbursement for expenses under the standard State travel regulations, as provided in the State budget.

Current Law: DJS must adopt regulations applicable to residential facilities it operates that (1) prohibit the use of locked door seclusion and restraints as punishment and describe the circumstances under which these methods may be used and (2) prohibit abuse of a child. DJS must also adopt regulations that set standards for juvenile detention facilities operated by DJS and by private agencies. The standards must reflect the following central purposes of juvenile detention: (1) to protect the public; (2) to provide a safe, humane, and caring environment for children; and (3) to provide access to required services for children. Standards must include provisions establishing prohibitions against the use of excessive force against a child and prohibitions against the use of physical restraints on an individual known to be in the third trimester of pregnancy or during labor, delivery, or postpartum recovery, including during all transports, unless a facility superintendent or designee determines that a physical restraint is necessary to protect the individual from harming herself or others or to prevent the individual's escape from custody.

Pursuant to regulation, a DJS facility employee may apply restraints to a youth only for the protection of the youth or other individuals, secure transportation, or the prevention of escape. (*See* COMAR 16.18.02.04). The use of restraint is governed by the policy applicable to the facility, which is based on the facility's physical structure and personnel. (*See* COMAR 16.18.02.05).

Background: JJMU within OAG investigates the needs of children under the jurisdiction of DJS and determines whether their needs are being met in compliance with State law. This includes reporting on allegations of abuse and on the treatment of and services for youth held in facilities. In its *Fourth Quarter Report and 2015 Annual Review*, JJMU expressed concern with current DJS policy on strip searches and shackling of children and recommended that State law be changed to prohibit indiscriminate shackling and strip searches in DJS facilities and during transportation.

Senate Bill 190 of 2016 (the budget bill), as enacted, includes language to withhold \$1.0 million of the general fund appropriation from DJS until DJS submits to the budget committees extensive information regarding policies and statistics for strip searches and shackling of children in DJS custody.

Additional Information

Prior Introductions: None.

Cross File: SB 1072 (Senators Muse and Norman) - Judicial Proceedings.

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

Fiscal Note History: First Reader - March 18, 2016
min/kdm Revised - House Third Reader/Updated Budget Information -
April 11, 2016

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