

Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 5

(Chair, Judicial Proceedings Committee)(By Request -
Departmental - Juvenile Services)

Judicial Proceedings

Juvenile Law - Continued Detention - Minimum Age

This departmental bill prohibits the continued detention, beyond emergency detention, of a child younger than age 12 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: The bill does not materially affect the operations or finances of the Department of Juvenile Services (DJS), the Judiciary, or the Office of the Public Defender (OPD).

Local Effect: The bill does not materially affect the workload of the circuit courts or State's Attorneys' offices.

Small Business Effect: DJS has determined that this bill has minimal or no impact on small business (attached). The Department of Legislative Services concurs with this assessment.

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 5 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 (a physically unrestricting facility), as a condition of probation or as an alternative to detention. Community detention includes electronic monitoring.

Background: The number of juveniles younger than age 12 admitted to detention has decreased in recent years, from 39 juveniles in fiscal 2013 to 6 juveniles in fiscal 2016. Between fiscal 2013 and 2015, approximately half of these juveniles were released within three days; in fiscal 2016, all of the juveniles were released within three days. This bill reflects those trends by authorizing only the use of emergency detention (generally no longer than three days) for juveniles younger than age 12 unless the juvenile is charged with a crime that carries a penalty of life. The department advises that alternatives to detention, such as shelter care or electronic monitoring, can instead be utilized to protect the safety of the juvenile and the public.

State/Local Fiscal Effect: Because juveniles younger than age 12 represent such a small portion of the youth detained annually, the bill is not anticipated to materially affect the operations or finances of DJS. Likewise, although the prohibition against continued detention for juveniles younger than age 12 except in limited circumstances may result in fewer court hearings, the workload of the circuit courts, OPD, and State's Attorneys' offices are not materially impacted.

Additional Information

Prior Introductions: HB 407 of 2014 received an unfavorable report from the House Judiciary Committee. SB 485 of 2014, a similar bill but designated as the cross file of HB 407, received an unfavorable report from the Senate Judicial Proceedings Committee. 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: None.

Information Source(s): Judiciary (Administrative Office of the Courts); Office of the Public Defender; State's Attorneys' Association; Department of Juvenile Services; Department of Legislative Services

Fiscal Note History: First Reader - January 16, 2017
mm/kdm

Analysis by: Jennifer K. Botts

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

ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Juvenile Law – Minimum Age of Continued Detention

BILL NUMBER: SB 5

PREPARED BY: Betsy Fox Tolentino

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS