

Department of Legislative Services
Maryland General Assembly
2021 Session

FISCAL AND POLICY NOTE
Third Reader

House Bill 277
Judiciary

(Delegate Atterbeary)

Judicial Proceedings

Criminal Law - First-Degree Child Abuse - Continuing Course of Conduct

This bill establishes that it is a violation of the State’s prohibition on *first-degree* child abuse to engage in a continuing course of conduct that includes three or more acts of *second-degree* child abuse. Violators are subject to the existing penalties for first-degree child abuse.

Fiscal Summary

State Effect: Minimal increase in general fund expenditures, beginning in the out-years, as discussed below. Revenues are not affected.

Local Effect: The bill is not expected to materially affect local finances or operations.

Small Business Effect: None.

Analysis

Current Law: First-degree child abuse occurs when a parent or other person who has permanent or temporary care, custody, or responsibility for the supervision of a minor commits abuse resulting in severe physical injury to or the death of the minor. “Abuse” and “severe physical injury” have specific statutory definitions.

A violator is guilty of a felony and subject to imprisonment for up to 25 years. If the violation results in the death of a victim who was at least age 13, a violator is subject to imprisonment for up to 40 years. A violator is subject to life imprisonment if the violation results in the death of a victim who was younger than age 13.

Second-degree child abuse occurs when a parent or other person who has permanent or temporary care, custody, or responsibility for the supervision of a minor causes abuse to a minor. A violator is guilty of a felony and subject to imprisonment for up to 15 years.

A person who violates these child abuse prohibitions after being convicted of a prior violation of these provisions is guilty of a felony, punishable by imprisonment for up to 25 years. If the violation results in the death of the victim, the violator is subject to life imprisonment.

A sentence imposed for child abuse may be separate from and consecutive to or concurrent with a sentence for any crime based on the act establishing the child abuse violation.

State Expenditures: General fund incarceration expenditures increase minimally, beginning in the out-years, as individuals who would be sentenced for second-degree child abuse under existing statute begin to serve longer sentences for first-degree child abuse imposed under the bill. The number of people convicted under the bill is expected to be minimal. The Judiciary can implement the bill's provisions using existing budgeted resources.

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 \$3,900 per month. Persons serving a sentence of one year or less in a jurisdiction other than Baltimore City are sentenced to local detention facilities. For persons sentenced to a term of between 12 and 18 months, the sentencing judge has the discretion to order that the sentence be served at a local facility or a State correctional facility. The State provides assistance to the counties for locally sentenced inmates and for (1) inmates who are sentenced to and awaiting transfer to the State correctional system; (2) sentenced inmates confined in a local detention center between 12 and 18 months; and (3) inmates who have been sentenced to the custody of the State but are confined in or who receive reentry or other prerelease programming and services from a local facility. The State does not pay for pretrial detention time in a local correctional facility. Persons sentenced in Baltimore City are generally incarcerated in State correctional facilities. The Baltimore Pretrial Complex, a State-operated facility, is used primarily for pretrial detentions.

The Office of the Public Defender (OPD) advises that the bill increases the agency's workload and caseloads by an unpredictable amount. The Department of Legislative Services advises that the bill is unlikely to increase the agency's workload in amount that would warrant the hiring of additional OPD staff. Individuals subject to the bill's provisions are likely being charged with second-degree child abuse under existing statute.

Additional Information

Prior Introductions: None.

Designated Cross File: SB 505 (Senator Hettleman) - 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; Department of Legislative Services

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