

Department of Legislative Services
Maryland General Assembly
2002 Session

FISCAL NOTE

House Bill 876
Judiciary

(Delegate Hecht, *et al.*)

Criminal Procedure - Crime of Violence - Child Sexual Abuse

This bill adds the crime of “sexual abuse of a child” to the list of crimes of violence for which specified enhanced penalties must be applied for repeat offenders. These enhanced penalties include: (1) a minimum ten-year sentence for a second conviction of a crime of violence; (2) a mandatory minimum 25-year sentence if a person has been imprisoned for at least one of two separate convictions of a crime of violence; and (3) a mandatory life sentence without parole for a fourth conviction of a crime of violence.

Fiscal Summary

State Effect: Potential significant increase in general fund expenditures due to the applicable enhanced penalty provisions for crimes of violence in future years. Revenues would not be affected.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: For purposes of the statutory prohibition against child abuse, “abuse” is defined as: (1) the sustaining of physical injury by a child as a result of cruel or inhumane treatment or as a result of a malicious act by any parent or other person who has permanent or temporary care or custody or responsibility for supervision of a child, or by any household or family member, under circumstances that indicate that the child’s health or welfare is harmed or threatened thereby; or (2) sexual abuse of a child, whether

physical injuries are sustained or not. “Sexual abuse” means any act of sexual molestation or exploitation of a child by a parent, household or family member, or other responsible person. Sexual abuse includes incest, rape, sodomy, an unnatural or perverted sexual practice, or a sexual offense in any degree.

Child abuse is a felony and subjects violators to a maximum incarceration penalty of 15 years. If the violation results in the death of the victim, the maximum penalty is 30 years.

“Child” means any individual under the age of 18 years.

Under applicable provisions, “crime of violence” means:

- abduction;
- arson in the first degree;
- kidnapping;
- manslaughter, except involuntary manslaughter;
- mayhem;
- maiming;
- murder;
- rape;
- robbery;
- carjacking;
- armed carjacking;
- sexual offense in the first degree;
- sexual offense in the second degree;
- use of a handgun in the commission of a felony or other crime of violence;
- an attempt to commit any of the above crimes;
- assault in the first degree;
- assault with intent to murder;
- assault with intent to rape;
- assault with intent to rob;
- assault with intent to commit a first degree sexual offense; and
- assault with intent to commit a second degree sexual offense.

Persons convicted of a subsequent crime of violence are also subject to various penalty enhancements, including mandatory minimum, nonsuspendable, nonparolable sentences.

A person sentenced under these provisions may petition for and be granted parole if the person is at least 65 years old and has served at least 15 years of the sentence imposed under these provisions. A person who has served three separate terms of confinement in a correctional facility as a result of three separate convictions of any crime of violence must be sentenced to life imprisonment without the possibility of parole.

State Expenditures: The Division of Correction (DOC) received 49 offenders convicted of child abuse in fiscal 2001. The average sentence was 68 months. Offenders tend to actually serve 70% of their sentence. There is no current data to assess how many of these offenders were repeat offenders, although it is assumed that some are and would have been subject to enhanced penalties under this bill. The average time served by a defendant sentenced to life without parole is 540 months.

The extent to which the bill could increase the number of violent offenders subject to enhanced penalties cannot be estimated at this time, but associated incarceration cost increases could be significant.

Persons serving a sentence longer than one year are incarcerated in DOC facilities. Currently, the average total cost per inmate, including overhead, is estimated at \$1,850 per month. This bill alone, however, should not create the need for additional beds, personnel, or facilities. Excluding overhead, the average cost of housing a new DOC inmate (including medical care and variable costs) is \$300 per month

Additional Information

Prior Introductions: A similar bill, HB 435, was introduced during the 2001 session and received an unfavorable report from the House Judiciary Committee.

Cross File: None.

Information Source(s): Department of Public Safety and Correctional Services (Division of Correction), Department of Legislative Services

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