

Department of Legislative Services

Maryland General Assembly

2002 Session

FISCAL NOTE

Revised

Senate Bill 516

(Senator Jimeno, *et al.*)

Judicial Proceedings

Judiciary

Abuse or Neglect of Vulnerable Adults - Degrees

This bill establishes a felony of abuse or neglect of a vulnerable adult in the first degree.

Fiscal Summary

State Effect: Potential minimal increase in general fund expenditures due to the bill's penalty provisions.

Local Effect: Potential increase in revenues due to the bill's penalty provisions.

Small Business Effect: None.

Analysis

Bill Summary: The bill prohibits a caregiver, parent, or other person with permanent or temporary care or responsibility for a vulnerable adult's supervision, or a household or family member from causing the abuse or neglect of an adult that results in death, serious physical injury, or sexual abuse. A person who victimizes a vulnerable adult in this manner is guilty of the felony of abuse or neglect of a vulnerable adult in the first degree and is subject to imprisonment for up to ten years or a maximum fine of \$10,000, or both. The bill defines "serious physical injury" as an injury that creates a substantial risk of death, or causes permanent or protracted serious disfigurement or the loss or impairment of the function of any bodily member or organ.

The bill excludes sexual abuse from the existing misdemeanor of abuse or neglect of a vulnerable adult as it is part of the felony of abuse or neglect of a vulnerable adult in the

first degree. It redesignates the misdemeanor as abuse or neglect of a vulnerable adult in the second degree. A violator is subject to the existing penalties of imprisonment not exceeding five years or a fine not exceeding \$5,000, or both.

Sentences imposed for the crimes of abuse or neglect of a vulnerable adult in the first or second degrees are in addition to any other sentence imposed for a conviction arising from the same facts and circumstances, unless the evidence required to prove each crime is substantially identical.

Current Law: A caregiver, parent, household or family member, or other person who has permanent or temporary care or responsibility for the supervision of a vulnerable adult, may not cause the abuse or neglect of the vulnerable adult. A person who is convicted of this crime is guilty of a misdemeanor and is subject to imprisonment not exceeding five years, or a maximum fine of \$5,000, or both. A sentence imposed is in addition to any other sentence imposed for a conviction arising from the same facts and circumstances unless the evidence needed to prove each crime is substantially identical. State law requires an investigation if a State or local unit receives a report of abuse or neglect of a vulnerable adult.

A “vulnerable adult” is any adult who lacks the physical or mental capacity to provide for daily needs. “Abuse” is the sustaining of physical injury or pain by a vulnerable adult as a result of cruel or inhumane treatment or a malicious act under circumstances that indicate the vulnerable adult’s health or welfare is harmed or threatened. The definition includes sexual abuse, but does not include accepted medical or behavioral procedures ordered by a health care provider.

“Neglect” is the intentional failure to provide necessary assistance and resources for the physical needs of a vulnerable adult, but does not include the provision of nonmedical remedial care and treatment for the healing of injury or disease that is recognized by State law or given with the consent of the vulnerable adult.

“Sexual abuse” includes rape, incest, sodomy, unnatural or perverted sex practices, or sexual offense in any degree. “Household” is the location where the vulnerable adult resides. It may also be where the abuse or neglect of a vulnerable adult is alleged to have taken place or where the person suspected of abusing or neglecting a vulnerable adult resides.

State Expenditures: General fund expenditures could increase minimally as a result of the bill’s incarceration penalty due to people being committed to Division of Correction (DOC) facilities for longer periods of time. The number of people convicted of this proposed crime is expected to be minimal.

Generally, 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.

Local Revenues: Revenues could increase minimally as a result of the bill's monetary penalty provisions from cases heard in the circuit courts.

Additional Information

Prior Introductions: None.

Cross File: HB 838 (Delegate Grosfeld, *et al.*) – Judiciary.

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

Fiscal Note History: First Reader - February 28, 2002
ncs/cer Revised - Senate Third Reader - March 25, 2002
Revised - Clarification - March 25, 2002
Revised - Enrolled Bill - April 23, 2002

Analysis by: Karen D. Morgan

Direct Inquiries to:
John Rixey, Coordinating Analyst
(410) 946-5510
(301) 970-5510