

Department of Legislative Services
Maryland General Assembly
2004 Session

FISCAL AND POLICY NOTE

Senate Bill 721 (Senator Pipkin)
Judicial Proceedings

Juvenile Causes - Repeat Juvenile Sex Offender - Adult Trial and Registration Requirement

This bill provides that unless a case is transferred to juvenile court, the following children shall be tried as adults: (1) have twice been convicted as an adult of certain sexual offenses; (2) have twice been adjudicated delinquent for committing certain acts that would have been sexual offenses if committed by an adult; or (3) have one such conviction and one such adjudication; and are subsequently alleged to have committed another such offense or act. Covered offenses include first and second degree rape and a first, second, or third degree sexual offense. If the child is convicted of the subsequent offense, the child must register with the child's supervisory authority, who places the child's name on the State's Sex Offender Registry.

Fiscal Summary

State Effect: Minimal increase in general fund expenditures due to increased incarceration costs and additional entries on the State's Sex Offender Registry. The number of persons affected by this bill is expected to be small.

Local Effect: Minimal – see above.

Small Business Effect: None.

Analysis

Current Law: The juvenile court does not have jurisdiction over 16 and 17 year old children who are alleged to have committed a violent crime, children 14 and older

charged with a capital crime, and children who have previously been convicted as an adult. These children are within the circuit courts' jurisdiction. However, with certain exceptions, a circuit court may transfer a case involving such a child to the juvenile court if a transfer is believed to be in the interest of the child or society ("reverse waiver").

The juvenile court may waive jurisdiction over a child alleged to be delinquent who is 15 or older, or who is younger than 15 and is charged with committing an act which, if committed by an adult, would be punishable by death or life imprisonment. The juvenile court may not waive its jurisdiction until after it has conducted a waiver hearing, held prior to an adjudicatory hearing, and after notice has been given to all parties. The hearing must be held within 30 days following approval of a petition for detention. The court may not waive its jurisdiction unless it determines, from a preponderance of the evidence presented at the hearing, that the child is an unfit subject for juvenile rehabilitative measures.

The Department of Public Safety and Correctional Services maintains a central registry of individuals convicted of certain crimes against children and other sexual offenses, some of whom are categorized as violent sexual offenders and/or sexual predators. Such a registry is required in all states, pursuant to federal law. The registry includes Maryland residents and nonresidents required to register in their home states, who enter Maryland to work or attend school. The minimum term of registration is 10 years, but those whose crimes are classified as "aggravated" or who have committed a second covered offense must register for life. All registrants must re-register at least annually, and there are penalties for failure to register or for providing false information. The registry is open to public inspection, so that, for example, residents can check whether any registrants are living in their neighborhood.

Juvenile records are confidential and may be disclosed only for certain purposes. Placing a child on this registry would to some extent supersede these confidentiality requirements, as those consulting the registry would be able to determine that the child had at least three adjudications for covered sexual acts.

State Expenditures: General fund expenditures could increase minimally due to more people being committed to Division of Correction (DOC) facilities and increased payments to counties for reimbursement of inmate costs. The number of people convicted of this proposed crime is expected to be minimal.

Persons serving a sentence longer than 18 months 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 \$350 per month. Excluding medical care, the average variable costs total \$120 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 DOC. The State reimburses counties for part of their incarceration costs, on a per diem basis, after a person has served 90 days. State per diem reimbursements for fiscal 2005 are estimated to range from \$14 to \$58 per inmate depending upon the jurisdiction. Persons sentenced to such a term in Baltimore City are generally incarcerated in DOC facilities. The Baltimore City Detention Center, a State-operated facility, is used primarily for pretrial detentions.

Local Expenditures: Expenditures could increase minimally if the bill results in more incarcerations. Counties pay the full cost of incarceration for people in their facilities for the first 90 days of the sentence, plus part of the per diem cost after 90 days. Per diem operating costs of local detention facilities are expected to range from \$29 to \$97 per inmate in fiscal 2005.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts), Department of Public Safety and Correctional Services, Department of Legislative Services

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ncs/jr

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