

Department of Legislative Services
Maryland General Assembly
2004 Session

FISCAL AND POLICY NOTE

Senate Bill 423

(Senator Frosh)

Judicial Proceedings

Juvenile Court - Expansion of Jurisdiction

This bill expands the jurisdiction of the juvenile court to include 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. However, the bill also creates a rebuttable presumption that a child who falls within one of these categories is an unfit subject for juvenile rehabilitative measures. The bill repeals current law that authorizes a court exercising criminal jurisdiction in a case involving a child to transfer that case to juvenile court under certain circumstances, and reduces the time in which the juvenile court must hold a waiver hearing from 30 to 15 days after the child's date of detention.

The bill applies only to offenses committed on or after the bill's October 1, 2004 effective date.

Fiscal Summary

State Effect: Decrease in general fund expenditures due to fewer incarcerations in Division of Correction (DOC) facilities offset by increases in general fund expenditures from more commitments to Department of Juvenile Services' (DJS) facilities.

Local Effect: Minimal decrease in expenditures for juveniles committed to DJS facilities rather than local facilities.

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.

State Expenditures: General fund expenditures could decrease minimally due to fewer people being committed to DOC facilities.

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. 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.

DJS costs could increase if more juveniles are committed to DJS residential facilities. The cost of maintaining a juvenile at a DJS residential facility averages \$178 per day, or \$65,000 per year. While not all juveniles receive this disposition, the serious nature of

the crimes covered by this bill make it likely that a substantial number will be committed to DJS facilities. The increase could be significant.

Local Expenditures: 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.

Additional Information

Prior Introductions: Two similar bills, HB 101 of 2001 and HB 381 of 2000, each received an unfavorable report from the House Judiciary Committee.

Cross File: None.

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

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lc/jr

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