

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE

House Bill 766

(Chairman, Judiciary Committee)

(By Request – Departmental – Juvenile Services)

Judiciary

Juvenile Services - Limitations on Place of Confinement

This departmental bill provides that a person 21 years old or older, alleged to have committed a delinquent act as a juvenile, may not be detained at, or committed, or transferred to a juvenile facility and must be detained at, or committed, or transferred to a correctional facility.

Fiscal Summary

State Effect: None. The bill generally codifies existing practice.

Local Effect: None.

Small Business Effect: The Department of Juvenile Services (DJS) has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment.

Analysis

Current Law: “Child” means an individual under the age of 18 years.

A child may not be confined in an adult correctional facility or transported together with adult criminal defendants, unless the child is being proceeded against as an adult. A child who is not delinquent may not be committed or transferred to a facility used for the confinement of delinquent children.

The juvenile court does not have jurisdiction over children at least 16 years old 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 of a felony and are subsequently alleged to have committed an act that would be a felony if committed by an adult. However, a circuit court may transfer a case involving such a child to the juvenile court if a transfer is believed to be in the interests of the child or society (“reverse waiver”). In addition, 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.

An adult, who is alleged to have committed a delinquent act as a juvenile, is charged as a juvenile until the court waives jurisdiction to the adult system. That adult could, theoretically, be detained in a juvenile facility between the arrest and the time the court waives jurisdiction.

Background: DJS advises that persons over the age of 21 are rarely charged as juveniles; this has occurred probably less than five times in the past decade. When this has occurred in the past, an adult facility has voluntarily accepted the individual.

Persons serving a sentence longer than 18 months are incarcerated in Division of Correction (DOC) facilities. This bill 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 \$310 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 2006 are estimated to range from \$17 to \$65 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.

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 \$33 to \$119 per inmate in fiscal 2006.

Additional Information

Prior Introductions: None.

Cross File: None.

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

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