

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE

House Bill 598

(Chair, Judiciary Committee)

(By Request – Departmental – Juvenile Services)

Judiciary

Criminal Procedure - Holding in a Juvenile Facility - Prohibitions

This departmental bill prohibits a child charged as an adult from being held in a juvenile facility if a criminal court has determined not to transfer its jurisdiction to the juvenile court.

Fiscal Summary

State Effect: Any decrease in general fund expenditures for the Department of Juvenile Services (DJS) would be offset by an increase in Department of Public Safety and Correctional Services (DPSCS) expenditures for reimbursements paid to local jurisdictions for detention costs. The number of cases affected is expected to be minimal.

Local Effect: Potential minimal increase in expenditures due to more people being held in local detention facilities.

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

Analysis

Current Law: A court may transfer a case to the juvenile court before trial or before a plea is entered if:

- the accused child was at least 14 but not 18 years of age when the alleged crime was committed;

- the alleged crime is excluded from the jurisdiction of the juvenile court; and
- the court determines by a preponderance of the evidence that a transfer of its jurisdiction is in the interest of the child or society.

The court may not transfer a case to the juvenile court if:

- the child previously has been transferred to juvenile court and adjudicated delinquent;
- the child was convicted in an unrelated case excluded from the jurisdiction of the juvenile court; or
- the alleged crime is murder in the first degree and the accused child was 16 or 17 years of age when the alleged crime was committed.

Pending the court's determination to transfer jurisdiction, the court may order that the child be held in a secure juvenile facility.

Background: Reverse waivers permit a juvenile who is being prosecuted as an adult in criminal court to petition to have the case transferred to juvenile court for adjudication or disposition.

Twenty-five states, including Maryland, allow for reverse waiver: Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Georgia, Illinois, Iowa, Kentucky, Mississippi, Montana, Nebraska, Nevada, New York, Oklahoma, Oregon, Pennsylvania, South Dakota, Tennessee, Vermont, Virginia, Wisconsin, and Wyoming.

State Expenditures: General fund expenditures for DJS detention could decrease minimally as a result of less people being detained in DJS detention facilities. The average annual cost for a juvenile in detention is approximately \$68,985 or \$189 per day for fiscal 2005. General fund expenditures for DPSCS could increase minimally due to the State's reimbursement of counties for incarceration costs. Offenders generally would be detained at local detention facilities (with the exception of the Baltimore City Detention Center, which is a State-operated facility). 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. 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 Public Safety and Correctional Services, Department of Legislative Services

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ncs/jr

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