

Department of Legislative Services
Maryland General Assembly
2006 Session

FISCAL AND POLICY NOTE

House Bill 110
Judiciary

(Delegates Boschert and Love)

Criminal Law - Crime Against a Child or Vulnerable Adult - Penalty

This bill increases the maximum imprisonment penalties for specified violations of child abuse prohibitions, sexual abuse of a minor, and abuse or neglect of a vulnerable adult in the first degree.

Fiscal Summary

State Effect: Minimal. It is assumed that any increased incarceration costs for the Division of Correction (DOC) stemming from this bill would not be significant, and would not begin to be realized for at least five years. Revenues would not be affected.

Local Effect: Minimal. Any increased caseload for the circuit courts resulting from this bill could be handled with existing budgeted resources.

Small Business Effect: None.

Analysis

Bill Summary: Specifically, the bill's increases in the maximum imprisonment penalties for violations of existing offenses are as follows:

First Degree Child Abuse

- from 25 to 30 years; and
- if the abuse results in the death of the victim, from 30 to 35 years.

Repeat Child Abuse Offenders

- for subsequent child abuse offenses, from 25 to 30 years; and
- if the subsequent abuse results in the death of the victim, from 30 to 35 years.

Sexual Abuse of a Minor – from 25 to 30 years.

First Degree Abuse or Neglect of a Vulnerable Adult – from 10 years to 30 years, with no change to the current law fine of \$10,000 that also may be imposed.

Current Law: Chapter 167 of 2003 established the crimes of child abuse in the first and second degrees, established terms of imprisonment for those crimes, and increased the maximum term of imprisonment for a person who causes sexual abuse to a minor. The Act provides that a parent or other person who has permanent or temporary care, custody, or responsibility for the supervision of a minor may not cause abuse resulting in severe physical injury or death to the minor. A violator is guilty of the felony of child abuse in the first degree and on conviction is subject to imprisonment for up to 25 years or, if the violation results in the death of the victim, imprisonment for up to 30 years. A person who violates the child abuse laws after being convicted of a prior violation of the same provisions is guilty of a felony and is subject to imprisonment for up to 25 years. If the violation results in the death of the victim, the violator is subject to imprisonment for up to 30 years.

Chapter 167 also established that the then existing crime of child abuse is child abuse in the second degree and is subject to a maximum term of imprisonment of 15 years for abuse that does not result in the death of the victim. The Act increased the maximum term of imprisonment for a person who causes sexual abuse to a minor from 15 to 25 years.

Chapter 217 of 2004 increased, from one to three years, the maximum incarceration penalty for a person convicted of fourth degree sexual offense if the person was previously convicted of a sexual crime or sexual abuse of a minor.

Chapter 285 of 2004 prohibited a person (with intent to commit certain sexual offenses) from knowingly “soliciting” a minor, or a law enforcement officer posing as a minor, to engage in activities that would be unlawful for the person to engage in under provisions relating to second degree rape or second or third degree sexual offense. For purposes of jurisdiction, a violation is considered to be committed in Maryland if the solicitation originated in Maryland or is received in the State. A violator is guilty of a felony and subject to maximum penalties of imprisonment for 10 years and/or a fine of \$25,000.

Background: The DOC standing population and intake rates for the existing offenses affected by this bill are unknown. The DOC assault and sex offense codes typically do not show the victim's status (*e.g.*, child or vulnerable adult) or whether it was a repeat offender. DOC's generic child abuse code does not differentiate by degree.

However, based on worksheets submitted to the Maryland Commission on Criminal Sentencing Policy by the circuit courts for convictions occurring from January 1, 2004 to June 30, 2005 (18 months), the following number of individuals was convicted of the covered offenses statewide:

- First Degree Child Abuse – 64
- First Degree Child Abuse, with death of the victim – 9
- Sexual Abuse of a Minor – 138
- First Degree Abuse or Neglect of a Vulnerable Adult – 15

State Expenditures: General fund expenditures could increase minimally (possibly by fiscal 2012) as a result of the bill's changes to incarceration penalties for the affected offenses due to people potentially being committed to DOC facilities for longer periods of time.

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 \$1,974 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 \$341 per month. Excluding medical care, the average variable costs total \$134 per month.

Additional Information

Prior Introductions: In 2005, HB 27 contained some similar provisions to this bill. HB 27 received an unfavorable report from the Judiciary Committee.

Cross File: None.

Information Source(s): Department of Public Safety and Correctional Services, State's Attorneys' Association, Judiciary (Administrative Office of the Courts), Office of the Public Defender, Commission on Criminal Sentencing Policy, Department of Legislative Services

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