

Department of Legislative Services  
Maryland General Assembly  
2006 Session

FISCAL AND POLICY NOTE

House Bill 15  
Judiciary

(Delegate Boschert)

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Juvenile Law - Juvenile Court Jurisdiction

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This bill establishes that the juvenile court does not have jurisdiction over a child who is at least 16 years old, with certain exceptions. This bill grants exclusive original jurisdiction to the District Court for certain criminal cases when the defendant is at least 16 years old.

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Fiscal Summary

**State Effect:** Significant increase in State expenditures to handle an increase in District Court cases and petitions for reverse waiver, mandatory educational programs for juveniles in State correctional facilities, and potential need for construction of separate gender-specific holding facilities for juveniles in courts and correctional facilities. Significant decrease in State expenditures because of the decrease in the Department of Juvenile Services (DJS) population. Potential significant decrease in DJS federal funding due to placement of youth in the adult correctional system.

**Local Effect:** Potential significant increase in local expenditures to handle increase in local jail population. Potential increase for State's Attorneys to handle increase in reverse waiver proceedings. Potential increase in local expenditures to the extent that circuit courts decide to reverse waive cases back to juvenile court.

**Small Business Effect:** Potential loss of small business revenue due to decrease in DJS population.

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## Analysis

**Bill Summary:** The bill provides that the juvenile court does not have jurisdiction over a child at least 16 years old unless an order removing the proceeding to juvenile court has been filed. The bill reduces the minimum age at which the District Court retains exclusive original jurisdiction over persons charged with various criminal violations from 18 to 16. Examples of applicable criminal violations include: (1) commission of a common-law or statutory misdemeanor; (2) violation of the general theft, motor vehicle theft, or bad check statutes; (3) misdemeanor violation of an ordinance; (4) vehicular manslaughter; and (5) homicide by motor vehicle or vessel while impaired or under the influence.

The bill removes the juvenile court's exclusive jurisdiction over cases in which a child has been charged with at least two violations of the Maryland Vehicle Law, another traffic law or ordinance, or the State Boat Act that allegedly rose out of the same incident, which would result in the child being brought before the juvenile court and a court exercising criminal jurisdiction.

The bill also provides that the adjudication of delinquency for a child who is at least 16 years old is reportable to the Central Repository. Additionally, if a child who is at least 16 years old was not fingerprinted at the time of arrest for a delinquent act, the court must order the child to be fingerprinted at the disposition hearing. If the child could not be fingerprinted at the disposition hearing, the court must order to child to report to a designated law enforcement unit to be fingerprinted within three days after the disposition hearing.

**Current Law:** "Child" means an individual under the age of 18 years.

In general, the juvenile court has jurisdiction over a child alleged to be delinquent, in need of supervision, or who has received a citation for alcoholic beverage violations.

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"). Reverse waiver is not permitted in certain circumstances, including if a child was previously transferred to juvenile court and adjudicated delinquent. The District Court also has the authority to transfer cases to juvenile court under certain circumstances. 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.

If a child at least 16 years old is alleged to have committed a violent crime, or was previously convicted as an adult of a felony and is subsequently alleged to have committed an act that would be a felony if committed by an adult, the adjudication of delinquency and the disposition of charges are reportable to the Central Repository. Children that fall into this category who were not fingerprinted at the time of arrest are subject to court-ordered fingerprinting at a disposition hearing or within three days after the disposition hearing.

**Background:** In *Crime in the United States 2004*, the Federal Bureau of Investigation reported that from 2003 to 2004, arrests of juveniles decreased 1.9%. In particular, arrests of juveniles for violent crimes decreased by 0.8% and arrests of juveniles for property crimes decreased by 3.0%. Over the same reporting period, overall arrests of adults increased by 1.5%, including a 1.6% decrease in adult arrests for violent crime and a 2.0% increase in adult arrests for property crimes.

According to the *2004 Maryland Uniform Crime Report*, 52,231 juvenile arrests were made in 2004. This represents a 2% increase over 2003 levels. Of this total, 27,672 (53%) of the arrests involved children ages 15 years or younger; 24,559 (47%) of the arrests were for children ages 16 and 17.

**State Revenues:** DJS advises that many placements of youth in committed residential programs receive funding under Title IV-E of the federal Social Security Act and Medicaid reimbursement for therapeutic services provided in foster care and group home settings. Title IV-E reimburses states for costs associated with placing children in foster care and other nonsecure placements. Youth served in the adult correctional system would not be eligible for this funding. In fiscal 2004, DJS claimed just over \$10.8 million in Title IV-E funding. DJS approximates federal funding loss under this bill at approximately \$5 million.

### **State Expenditures:**

#### *Decrease in DJS Population*

A potentially significant decrease in State expenditures would result from the decrease in the DJS population, perhaps in the tens of millions. DJS reports that 55% (3,928) of its current population is between the ages of 16 and 18. While these youth would not be affected by this bill, future youth in this age group will be sent through the regular judicial system unless a reverse waiver places them back into the juvenile system. DJS advises that since many of their operating costs are fixed costs, the reduction in State expenditures would not be proportional to the reduction in the DJS population.

*Increase in Number of Court Proceedings*

A potentially significant increase in State expenditures would be required to handle the increase in District Court cases and for public defenders to handle additional reverse waiver proceedings. The Office of the Public Defender (OPD) estimates that it handles approximately 8,000 cases per year involving juveniles who are 16 or older. OPD advises that waiver hearings are especially labor intensive, since they involve a detailed inquiry into the nature of the offense, the child's capacity, and the appropriateness and availability of the programs available in both the juvenile and adult systems. Due to the increase in waiver hearings, OPD estimates that its workload in these 8,000 cases will double. According to caseload guidelines, in order to accommodate this increased workload, OPD would need to hire 44 assistant public defenders, one office secretary, and one social worker. This could result in increased general fund expenditures of approximately \$2.8 million for fiscal 2007.

Salaries and Fringe Benefits	\$2,521,379
Other Operational Expenses	<u>282,850</u>
<b>Total Increase FY 2007 State Expenditures for OPD</b>	<b>\$2,804,229</b>

*Increase in Adult Justice System Population*

A significant increase in State expenditures would be required to handle increases in the population served by the Department of Public Safety and Correctional Services and local jails.

The State is required to provide special education and related services for a child with a disability until the child turns 21 years of age. Inmates of the Division of Correction (DOC) received after July 1, 1987 with 18 months or more before a mandatory supervision release date are required to attend 120 days of a mandatory education or vocational training program if they do not have a General Education Diploma or high school diploma. Providing these programs to the increased adult justice system population would result in increased State expenditures. OPD advises that juveniles must be sight and sound separated from the adult population in adult facilities; it is unclear to what extent this would apply under this bill. Significant increases in capital costs would be expected if new facilities are necessary.

General fund expenditures could increase significantly due to more people being committed to DOC facilities and increased payments to counties for reimbursement of inmate costs. This bill could increase the average daily population in DOC facilities to the extent that additional beds, personnel, infrastructure improvements, or a new prison facility will be necessary. Based on a cost of approximately \$106,000 per bed, the cost of

building a new medium security 1,300-bed prison facility is currently estimated at \$137.8 million. Actual costs would depend on the design, location, and existing infrastructure.

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. 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.

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 2007 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.

**Local Expenditures:** A potentially significant increase in local expenditures would be required to handle the increase in the local jail population. Assuming that a reverse waiver proceeding will take place for almost all juvenile cases sent to District Court and circuit courts under this bill, there could be an increase in workload for State's Attorneys. This increased workload would probably be handled with existing resources, but may vary by jurisdiction.

**Small Business Effect:** Most DJS committed youth are served by private providers. These residential providers would serve approximately 49% fewer youth. To the extent that any of these providers are small businesses, this bill could result in a loss of small business revenue.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Department of Juvenile Services; Judiciary (Administrative Office of the Courts); "*Crime in the United States 2004*," Federal Bureau of Investigation; "*Crime In Maryland: 2004 Uniform Crime Report*," Maryland State Police; Office of the Public Defender; Department of Legislative Services

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