

Department of Legislative Services
Maryland General Assembly
2006 Session

FISCAL AND POLICY NOTE

House Bill 1155

(Delegate Kelley, *et al.*)

Judiciary

Juvenile Law - Juvenile Court Jurisdiction - Motor Vehicle Theft

This bill excludes theft of a motor vehicle alleged to have been committed by a child at least 16 years old from the juvenile court's jurisdiction. The bill retains an exception for proceedings transferred back to the juvenile court.

The bill applies prospectively to offenses committed on or after the bill's October 1, 2006 effective date.

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, additional public defenders, and potential need for construction of separate gender-specific holding facilities for juveniles in courts and correctional facilities. Significant offsetting decrease in State expenditures because of the reduction in the Department of Juvenile Services (DJS) population to the extent cases are not transferred to the juvenile court.

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 individuals affected by this bill request jury trials in circuit courts.

Small Business Effect: None.

Analysis

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.

Motor vehicle theft under § 7-105 of the Criminal Law Article is a felony, punishable by up to five years imprisonment and/or up to a \$5,000 fine.

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 Expenditures:

Decrease in DJS Population

DJS reports that in fiscal 2005, 741 of the 33,774 youth processed by DJS were youths 16 years old and above who were alleged to have committed an auto theft. These 741 youth represent 2% of the average DJS intake workload.

In fiscal 2005, approximately 146 of these 741 youth were committed to DJS for placement. This represents 6% of the DJS committed population. Moving these youth to the adult population would reduce the DJS committed population, thereby reducing general fund expenditures. The current average cost of a committed out-of-home per diem placement is approximately \$60,000 per year. However, the actual decrease in general fund expenditures will depend on the number of youth 16 years old or above alleged to have committed motor vehicle theft whose cases are not transferred back to juvenile court.

Increase in Number of Court Proceedings

The District Court has exclusive original jurisdiction over motor vehicle theft cases. Under the bill, these 741 youth would go to District Court (some of these cases could be transferred back to juvenile court or a jury trial prayer to circuit court could be filed). Placing these cases automatically under the District Court's jurisdiction would also increase the number of reverse waiver hearings that take place. The Office of the Public Defender (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. This increase in waiver hearings for public defenders could result in the need for additional staff.

Increase in Adult Justice System Population

An 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 and be separated by gender; 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.

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: An increase in local expenditures would be required to handle the increase in the local jail population. There may be a potential increase in expenditures for circuit courts to the extent individuals affected by this bill request jury trials in circuit courts. Assuming that a reverse waiver proceeding will take place for almost all juvenile cases sent to District Court 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.

Additional Information

Prior Introductions: None.

Cross File: SB 641 (Senator Lawlah, *et al.*) – Judicial Proceedings.

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

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