

Department of Legislative Services
Maryland General Assembly
2006 Session

FISCAL AND POLICY NOTE
Revised

House Bill 367

(Delegate Patterson, *et al.*)

Health and Government Operations

Education, Health, and Environmental Affairs

Family Law - Unregistered Family Day Care Homes and Unlicensed Child Care
Centers - Penalties

This bill increases the maximum misdemeanor penalties for individuals convicted of operating: (1) a family day care home without a Maryland State Department of Education (MSDE) Office of Child Care (OCC) registration; and (2) a child care center without an OCC license. An individual who operates a family day care home without registration or a child care center without a license is guilty of a misdemeanor and on conviction is subject to a penalty of up to: (1) \$1,500 for the first violation; and (2) \$2,500 for a second or subsequent violation.

Fiscal Summary

State Effect: Potential minimal increase in general fund revenues due to the bill's misdemeanor penalty provisions. No effect on expenditures.

Local Effect: No material effect on local government finances.

Small Business Effect: Meaningful for violators who are found guilty of a misdemeanor offense and are charged a fine.

Analysis

Current Law: An individual who operates a family day care home without OCC registration or a child care center without an OCC license is guilty of a misdemeanor and on conviction is subject to a maximum \$1,000 fine. Misdemeanor fines are deposited into the general fund.

A person who violates any laws related to family day care homes or any rule or regulation adopted under the law is subject to a civil penalty of up to: \$250 for the first violation; \$500 for the second violation; and \$1,000 for the third and each subsequent violation. Each day a violation occurs is a separate violation. The maximum total amount of civil penalties that may be imposed is \$5,000. Any such civil penalties collected must be deposited into the general fund. Any person served with a citation may appeal to the Office of Administrative Hearings.

A person who violates any law related to child care centers or any rule or regulation adopted under the law is subject to a civil penalty of up to \$1,000 per violation. Each day a violation occurs is a separate violation. The total amount of civil penalties that may be imposed in an action is \$5,000.

Chapter 585 of 2005 required the State Superintendent of Schools to establish an Early Childhood Development Division within MSDE and transferred the Child Care Administration within the Department of Human Resources, excluding the Office of Child Care Subsidy, to MSDE. The Child Care Administration was renamed the Office of Child Care under MSDE.

Background: During calendar 2005, OCC issued six civil citations to unregistered family day care homes. Of those six citations issued, \$1,000 in fines was collected (\$250 each for four unregistered family day care homes) with the remaining two citations still outstanding. Also during calendar 2006, there were two criminal summons issued for unregistered family day care homes. Both providers were placed on OCC supervised probation. Two civil citations to unregistered family day care homes were issued this year.

To successfully prosecute a criminal case or issue a civil citation, it must be proven that care is being provided on a regular basis (20 hours or more per month) in a residence other than the child's home for cash or in-kind by someone who is not related, according to OCC.

Generally, with certain statutory exceptions, misdemeanor offenses are heard in the District Court. All jury trials are heard in the circuit courts.

In December 2005, 2,691 facilities in Maryland were regulated by OCC as either licensed child care centers or nursery schools and child care programs operated by tax-exempt religious organizations under "Letters of Compliance." During that same period, there were 9,412 registered family day care homes in the State.

State Revenues: General fund revenues could increase minimally as a result of the bill's monetary penalty provisions from cases heard in the District Court. The number of people convicted of this crime, and who pay a fine, is expected to be minimal.

Additional Information

Prior Introductions: This bill is similar to HB 501 of 2005 which passed in the House. It received an unfavorable report by the Education, Health, and Environmental Affairs Committee.

Cross File: None.

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

Fiscal Note History: First Reader - February 6, 2006
ncs/ljm Revised - House Third Reader - March 27, 2006

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