

**Department of Legislative Services
Maryland General Assembly
2007 Session**

FISCAL AND POLICY NOTE

House Bill 507
Judiciary

(Prince George’s County Delegation)

**Prince George's County - Juvenile Offenses and Absences from School -
Administrative and Criminal Penalties
PG 317-07**

This bill authorizes additional penalties for Prince George’s County students who commit offenses during school hours. The bill also provides for fines and suspension of driving privileges for Prince George’s County students with two or more unexcused absences from school.

Fiscal Summary

State Effect: Special fund expenditures could increase by \$72,200 in FY 2008 for Maryland Department of Transportation programming and administrative costs, offset by special fund revenue of \$120,700 due to the bill’s fine provisions. Out-years reflect annualization and inflation. Potential minimal increase in general fund revenues and expenditures due to the bill’s penalty provisions.

(in dollars)	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
GF Revenue	-	-	-	-	-
SF Revenue	120,700	160,900	160,900	160,900	160,900
GF Expenditure	-	-	-	-	-
SF Expenditure	72,200	18,100	18,200	18,400	18,600
Net Effect	\$48,500	\$142,800	\$142,700	\$142,500	\$142,300

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: Potential minimal increase in revenues and expenditures due to the bill’s penalty provisions. It is assumed that notification requirements for the Prince George’s County School System could be handled with existing resources.

Small Business Effect: None.

Analysis

Bill Summary: This bill requires juvenile courts in Prince George’s County to consider whether an offense was committed during school hours in making a disposition on a case involving a minor. The bill also authorizes additional criminal penalties of up to one year imprisonment and a \$10,000 fine for a minor convicted as an adult of a crime during school hours.

The bill further requires the Prince George’s County School System to notify the Motor Vehicle Administration (MVA) each time a public or private school student who is 16 or 17 years old accumulates two unexcused absences from school. For a first reporting, the MVA is required to impose a fine of \$500 and suspend a student’s driver license until the child turns 18. For a subsequent reporting, the MVA is required to impose a fine of \$750 and suspend a student’s driver license until the child turns 21. A licensee may request a hearing on a suspension or delay as provided under Maryland Vehicle Law.

Current Law:

Jurisdiction over Juvenile Arrests

The juvenile court generally has jurisdiction over individuals under the age of 18 years alleged to be delinquent, in need of supervision, or who have 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 subsequently alleged to have committed an act that would be a felony if committed by an adult.

A circuit court may transfer a case involving a child to the juvenile court if a transfer is believed to be in the interests of the child or society (“reverse waiver”). A 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 a child younger than 15 and charged with committing an act that would be punishable by death or life imprisonment if committed by an adult.

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 not fingerprinted at the time of arrest are subject to court-ordered fingerprinting within three days of the disposition hearing.

Truancy

Under current law, a child who is required by law to attend school and is habitually truant is considered a “Child in Need of Supervision.” A student is habitually truant if the student is unlawfully absent from school more than 20% of the school days within any marking period, semester, or year. Local school systems have the authority to define habitual truancy in a more stringent manner. These cases are under the jurisdiction of the juvenile court.

The principal of each public or private school statewide is required to report a student with habitual unexcused absences to the county superintendent or a designated representative to initiate an investigation. If the child is under the custody of a State or local agency, the superintendent must immediately notify the appropriate agency. If no such arrangement exists, the superintendent may provide to the child counseling on the availability of social services or refer the student to the Department of Juvenile Services.

Current statutory penalties focus on parents and guardians rather than children. Any person who induces a child to be unlawfully absent from school, or who employs or harbors any child who is absent unlawfully from school is guilty of a misdemeanor and subject to a maximum fine of \$500 and/or imprisonment for up to 30 days.

Any person who has legal custody or care and control of a child who is at least 5 years, but less than 16 years, who fails to see that the child attends school or receives instruction is guilty of a misdemeanor. For a first conviction, the violator is subject to a maximum fine of \$50 per unlawful day of absence and/or imprisonment not to exceed 10 days. For a second or subsequent conviction, the violator is subject to a maximum fine of \$100 per day of unlawful absence and/or imprisonment not to exceed 30 days. The court may suspend the fine or prison sentence imposed and establish terms and conditions that would promote the child’s attendance.

The principal or head teacher of each public or private school in Maryland must immediately report to the county superintendent or other designated official the name of each child enrolled in the school who has been absent in attendance without lawful excuse. On receipt of this report, the appropriate school system representative must

initiate an investigation into the cause of the child's truancy, and may provide counseling regarding available social, health, and educational services. Following the investigation or intervention, the representative may notify the Department of Juvenile Services that the student has been habitually truant, without lawful excuse.

Background:

Truancy Reduction Pilot Program

Chapter 551 of 2004 authorized the establishment of a Truancy Reduction Pilot Program in the juvenile courts of Dorchester, Somerset, Wicomico, and Worcester counties. The first truancy court was established in Wicomico County in January 2005. Since that time the truancy court program has expanded to include Dorchester, Somerset, and Worcester counties.

Similar to drug courts, truancy courts are problem-solving courts in which cases are heard on a special docket by the same judge each month. The courts hold regular hearings in each case to review a child's progress toward full attendance and to address the causes of the child's truancy. Participants graduate when they have remained in the program for 90 days with no unexcused absences. A total of 162 students have participated in the pilot program since its inception in 2005.

Truancy data

The Maryland State Department of Education (MSDE) defines habitual truancy as a child ages 5 to 20 enrolled in a school for more than 90 days who is absent for 20% or more of enrolled days. According to MSDE data, 4.39% of children enrolled in Prince George's County public schools were habitually truant during the 2005-2006 school year. Based on total enrollment of 133,325 students, more than 5,800 students in Prince George's public schools were classified as habitually truant in that school year. In addition, private school students comprise 18% of total school enrollment statewide. Applying this number to Prince George's County data, it is assumed that an additional 1,297 students in Prince George's County private schools were habitually truant in the 2005-2006 school year.

State Revenues: General fund revenues could increase as a result of the bill's monetary penalty provisions from cases heard in District Court.

Special fund revenues could also increase as a result of fines imposed by the MVA. Based on the experience of the Truancy Reduction Pilot Program in Dorchester, Somerset, Wicomico, and Worcester counties, approximately 4% of truant students

would be expected to be referred to the program annually, equivalent to an estimated 286 public and private school students in Prince George's County. For each student referred, the MVA is required to impose a fine of \$500 for a first reporting and \$750 for a second reporting. Assuming 75% of referrals are for first reportings, the fine provision could generate an estimated \$120,656 in fiscal 2008, which reflects the bill's October 1, 2007 effective date and \$160,875 annually beginning in fiscal 2009.

State Expenditures: Expenditures would vary based on the number of students referred to the program and the discretion of the courts in imposing penalties. General fund expenditures could increase as a result of the bill's incarceration penalty due to increased payments to Prince George's County for reimbursement of inmate costs and more people being committed to Division of Correction (DOC) facilities.

Generally, persons serving a sentence of less than one year in a jurisdiction are sentenced to a local detention facility. The State reimburses counties for their incarceration costs, on a per diem basis, after a person has served 90 days. State per diem reimbursements for fiscal 2008 are estimated at \$49 per inmate in Prince George's County. The DOC average total cost per inmate, including overhead, is currently estimated at \$2,300 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 \$465 per month.

Special fund expenditures could also increase as a result of the increased MVA workload, as detailed in **Exhibit 1**. Fiscal 2008 expenditures could increase by an estimated \$72,156, which accounts for the bill's October 1, 2007 effective date. One-time programming costs are assumed at \$58,750 to modify violation codes in the MVA's digital workflow system. Students are also entitled to request a hearing on the license suspension or delay; costs for administrative hearings could increase by \$18,000 per year if half of the estimated 286 students affected pursue this option. Future year expenditures reflect 1% annual increases in ongoing operating expenses. It is assumed that other administrative processing and personnel requirements could be handled with existing resources.

Exhibit 1
Estimated MVA Expenditures
Fiscal 2008-2012

	<u>FY 2008</u>	<u>FY 2009</u>	<u>FY 2010</u>	<u>FY 2011</u>	<u>FY 1012</u>
Computer Programming	\$58,750	-	-	-	-
Administrative Hearings	<u>13,406</u>	<u>18,054</u>	<u>18,234</u>	<u>18,417</u>	<u>18,601</u>
Total Expenditures	\$72,156	\$18,054	\$18,234	\$18,417	\$18,601

Local Revenues: Revenues could increase as a result of the bill's monetary penalty provision from cases heard in the circuit courts.

Local Expenditures: Expenditures could increase as a result of the bill's incarceration penalty. Counties pay the full cost of incarceration for the first 90 days of the sentence, plus part of the per diem costs after 90 days. Per diem operating costs of Prince George's County detention facilities are estimated at \$97 per inmate in fiscal 2008.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Prince George's County, Judiciary (Administrative Office of the Courts), Maryland State Department of Education, Maryland Department of Transportation, Department of Legislative Services

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