

Department of Legislative Services
Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE

House Bill 873
Judiciary

(Delegate Kramer, *et al.*)

**Criminal Law - Crimes Against the Elderly or Persons with a Disability -
Penalties**

This bill prohibits a person from committing any of the following offenses against a person who is at least 65 years old or a “person with a disability:” manslaughter; second degree rape; attempted second degree rape; second degree sexual offense; attempted second degree sexual offense; first or second degree assault; third or fourth degree sexual offense; sodomy; robbery; carjacking; extortion; theft; a credit card offense; and identity fraud. A violator is guilty of a misdemeanor and subject to maximum penalties of imprisonment for five years and/or a fine of \$5,000.

A conviction under these provisions does not merge with a conviction for the underlying offense upon which this violation is based. A sentence imposed under these provisions must be consecutive to and not concurrent with any other sentence imposed for any crime based on the act establishing the violation of these provisions.

Fiscal Summary

State Effect: Minimal increase in general fund revenues and expenditures due to the bill’s penalty provisions.

Local Effect: Minimal increase in local revenues and expenditures due to the bill’s penalty provisions.

Small Business Effect: None.

Analysis

Current Law: Except for certain sexual offenses where the specified age of a young victim is one of the elements of the crime, Maryland criminal law does not generally provide for criminal sanctions based on the age of the victim.

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

State Expenditures: General fund expenditures could increase minimally as a result of the bill's incarceration penalty due to more people being committed to Division of Correction (DOC) facilities and increased payments to counties for reimbursement of inmate costs. The number of people convicted of these proposed crimes is expected to be minimal.

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 \$2,600 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 \$526 per month. Excluding medical care, the average variable costs total \$148 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 2009 are estimated to range from \$19 to \$71 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 Revenues: Revenues could increase minimally as a result of the bill's monetary penalty provision from cases heard in the circuit courts.

Local Expenditures: Expenditures could increase minimally as a result of the bill's incarceration penalty. Counties pay the full cost of incarceration for people in their facilities for the first 90 days of the sentence, plus part of the per diem cost after 90 days. Per diem operating costs of local detention facilities are expected to range from \$40 to \$129 per inmate in fiscal 2009.

Additional Information

Prior Introductions: HB 1225 of 2006, a similar bill applied to crimes against the elderly, received an unfavorable report from the House Judiciary Committee. SB 309 and HB 868 of 2005, which would have prohibited assaults on persons 65 or older, received unfavorable reports from the Senate Judicial Proceedings Committee and the House Judiciary Committee, respectively. SB 111 of 1999, which would have augmented the current law penalties for crimes of violence if committed against a person who is 65 or older, passed the Senate and received an unfavorable report from the House Judiciary Committee.

Cross File: SB 501 (Senator Kramer, *et al.*) – Judicial Proceedings.

Information Source(s): Judiciary (Maryland District Court, Administrative Office of the Courts), Department of Public Safety and Correctional Services, Department of Legislative Services

Fiscal Note History: First Reader - February 11, 2008
mll/jr

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