

**Department of Legislative Services**  
Maryland General Assembly  
2008 Session

**FISCAL AND POLICY NOTE**

Senate Bill 1005

(Senator Gladden)

Judicial Proceedings

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**Crimes - Elder Abuse - Increased Penalties and Restrictions on Pretrial Release  
(The John H. Taylor Act)**

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This bill increases the maximum criminal penalties for causing abuse or neglect of a vulnerable adult in the first degree from imprisonment for 10 years and/or a fine of \$10,000 to 15 years and/or \$15,000. In addition, the bill prohibits a District Court commissioner from authorizing the pretrial release of a defendant charged with this offense. The bill allows a judge to authorize the release of such a defendant on suitable bail that exceeds \$5,000, any other conditions (including retention of a passport) reasonably assuring that the defendant will not flee or pose a danger to others, or both bail and such other conditions.

The bill also provides that, under the Maryland Rule governing the review of a commissioner's pretrial release order, when such a defendant is presented to the court under that rule the judge must order continued detention if the judge determines that bail or other conditions of release would not protect against flight or a danger to others prior to the trial.

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**Fiscal Summary**

**State Effect:** Minimal increase in general fund expenditures due to the bill's incarceration penalty provisions. It is assumed that the bill's restrictions on pretrial releases would occur in a small number of cases and would not impose any measurable operational or financial impact on the Division of Pretrial Detention and Services or the courts.

**Local Effect:** Minimal increase in local revenues and expenditures due to the bill's penalty provisions. It is assumed that the bill's restrictions on pretrial releases would

occur in few cases and would not impose any measurable operational or financial impact on local jails or the courts.

**Small Business Effect:** None.

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## Analysis

**Current Law:** A caregiver, a parent, or other person who has permanent or temporary care or responsibility for the supervision of a vulnerable adult may not cause abuse or neglect of the vulnerable adult that results in the death of the vulnerable adult; causes serious physical injury to the vulnerable adult; or involves sexual abuse of the vulnerable adult. The same prohibition applies to a household member or family member.

A violator is guilty of the felony of abuse or neglect of a vulnerable adult in the first degree and subject to maximum penalties of imprisonment for 10 years and/or a fine of \$10,000. A sentence imposed under this section must be in addition to any other sentence imposed for a conviction arising from the same facts and circumstances unless the evidence required to prove each crime is substantially identical.

Under Maryland Rule 4-216(f), relating to the review of a commissioner's pretrial release order, a defendant who is denied pretrial release by a commissioner or who for any reason remains in custody for 24 hours after a commissioner has determined conditions of release pursuant to this Rule must be presented immediately to the District Court. The District Court must review the commissioner's pretrial release determination and take appropriate action. If the defendant will remain in custody after the review, the District Court must set forth in writing or on the record the reasons for the continued detention.

**Background:** According to published news accounts in August 2007, 90-year old John H. Taylor was seen, on a security video tape installed in the man's home, to have been severely beaten on four separate occasions by a caretaker. A grand jury in Baltimore City indicted the caretaker on multiple counts of assault, abuse of a vulnerable adult, and reckless endangerment. The caretaker did not show up for a court appearance date and police later determined that she fled the country on her Kenyan passport.

**State Expenditures:** General fund expenditures could increase minimally as a result of the bill's incarceration penalty people being committed to Division of Correction (DOC) facilities for longer periods of time. The number of people subject to the bill's increased penalties 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 increased monetary penalty provision from cases heard in the circuit courts.

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

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Department of Public Safety and Correctional Services,  
Department of Legislative Services

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