

Department of Legislative Services
Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE
Revised

House Bill 867
Judiciary

(Delegate Kramer, *et al.*)

Judicial Proceedings

Crimes - Financial Exploitation of Elderly - Penalty

This bill, under provisions that now apply to financial exploitation of vulnerable adults, prohibits a person from knowingly and willfully obtaining by deception, intimidation, or undue influence the property of an individual at least age 75, regardless of whether the person knows or reasonably should know the age of the individual, with intent to deprive the individual of the individual's property. A violator is subject to existing penalties applicable when the victim is a vulnerable adult.

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.

A person may not knowingly and willfully obtain by deception, intimidation, or undue influence the property of an individual that the person knows or reasonably should know is a vulnerable adult with intent to deprive the vulnerable adult of the vulnerable adult's

property. “Vulnerable adult” is defined as an adult who lacks the physical or mental capacity to provide for the adult’s daily needs. When the value of the property is \$500 or more, a violator is guilty of a felony and subject to maximum penalties of imprisonment for 15 years and/or a fine of \$10,000, and must restore the property taken or its value to the owner, or, if the owner is deceased, restore the property or its value to the owner’s estate.

When the value of the property is less than \$500, it is a misdemeanor and the violator is subject to maximum penalties of imprisonment for 18 months and/or a fine of \$500, and must restore the property taken or its value to the owner, or, if the owner is deceased, restore the property or its value to the owner’s estate.

A sentence imposed under these provisions may be separate from and consecutive to or concurrent with a sentence for any crime based on the act or acts establishing this violation. A conviction disqualifies the defendant from inheriting, taking, enjoying, receiving, or otherwise benefiting from the estate, insurance proceeds, or property of the vulnerable adult, whether by operation of law or pursuant to a legal document executed or entered into by the vulnerable adult before the defendant was convicted under these provisions and made full restoration of the property taken or of its value to the vulnerable adult.

These provisions may not be construed to impose criminal liability on a person who, at the request of the vulnerable adult, the vulnerable adult’s family, or the court appointed guardian of the vulnerable adult, has made a good faith effort to assist the vulnerable adult in the management of or transfer of the vulnerable adult’s property.

State Revenues: General fund revenues could increase minimally as a result of the applicable monetary penalties provision from cases heard in the District Court.

State Expenditures: General fund expenditures could increase minimally as a result of the applicable incarceration penalties 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 applicable monetary penalties provision from cases heard in the circuit courts.

Local Expenditures: Expenditures could increase minimally as a result of the applicable incarceration penalties. 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: None.

Cross File: SB 500 (Senator Kramer, *et al.*) – Judicial Proceedings.

Information Source(s): Judiciary (District Court), Department of Public Safety and Correctional Services, Department of Legislative Services

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