

Department of Legislative Services
Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE

House Bill 563
Judiciary

(Delegate Kramer, *et al.*)

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

This bill prohibits a person from committing a “crime of violence” against a person who is at least 68 years old or a “person with a disability.” A violator is guilty of a misdemeanor and subject to maximum penalties of five years imprisonment and/or a \$5,000 fine.

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: Potential minimal increase in general fund revenues and expenditures due to the bill’s penalty provisions.

Local Effect: Potential 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. Crimes of violence include murder, manslaughter, some sexual offenses, robbery, carjacking, kidnapping, assault, and other offenses, as specified in the Criminal Law Article.

Background: According to the Department of Disabilities and the U.S. Census Bureau, there are more than 667,000 people with one or more disabilities in Maryland. The department also reports that very little reliable national data exists on crimes against persons with disabilities in the United States, though such events are believed to occur nationally at higher rates than with the general population. Crime victims with disabilities may also experience victimization at the hands of family caregivers, partners, or personal assistance service professionals. In fact, more than half of all reported abuse of people with disabilities is estimated to be perpetrated by family members and peers with disabilities. According to the National Council on Disability, Association of University Centers on Disabilities, and the National Center for Victims of Crime service providers are generally believed responsible for the other half.

It is not known how many crimes against elderly persons or persons with disabilities currently occur in Maryland each year.

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

State Expenditures: General fund expenditures may 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 variable medical care and variable operating costs) is \$342 per month. Excluding all medical care, the average variable costs total \$164 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 2010 are estimated to range from \$23 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 may increase minimally as a result of the bill's monetary penalty provision from cases heard in the circuit courts.

Local Expenditures: Expenditures may 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 \$46 to \$141 per inmate in fiscal 2010.

Additional Information

Prior Introductions: HB 873 of 2008, a similar bill, received an unfavorable report from the House Judiciary Committee. Its cross file, SB 504, received an unfavorable report from the Senate Judicial Proceedings Committee.

Cross File: None.

Information Source(s): Commission on Criminal Sentencing Policy, Department of Disabilities, Judiciary (Maryland District Court), Department of State Police, Department of Aging, Office of the Public Defender, Department of Public Safety and Correctional Services, State's Attorneys' Association, National Council on Disability, Association of University Centers on Disabilities, National Center for Victims of Crime, Department of Legislative Services

Fiscal Note History: First Reader - February 27, 2009
ncs/kdm

Analysis by: Guy G. Cherry

Direct Inquiries to:
(410) 946-5510
(301) 970-5510