

Department of Legislative Services
Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE

House Bill 864
Judiciary

(Delegate Sophocleus, *et al.*)

Judicial Proceedings

Criminal Law - Felony Child Abuse in the First Degree

This bill expands the felony of child abuse in the first degree to include a family member or household member who causes abuse to the minor that (1) results in the death of the minor; or (2) causes severe physical injury to the minor. Violators are subject to current penalties for felony child abuse in the first degree.

The bill's changes would make terminology in the first degree child abuse statute consistent with terminology used in the second degree child abuse statute.

Fiscal Summary

State Effect: Minimal increase in general fund expenditures due to the bill's expanded application of current incarceration penalties.

Local Effect: Minimal increase in local revenues from the bill's expanded application of current monetary penalties.

Small Business Effect: None.

Analysis

Current Law: Chapter 167 of 2003 established the crimes of child abuse in the first and second degrees and established terms of imprisonment for those crimes, among other provisions. Chapter 167 provides that a parent or other person who has permanent or temporary care, custody, or responsibility for the supervision of a minor may not cause abuse resulting in severe physical injury or death to the minor. A violator is guilty of the felony of child abuse in the first degree and on conviction is subject to imprisonment for

up to 25 years or, if the violation results in the death of the victim, imprisonment for up to 30 years. A person who violates the child abuse laws after being convicted of a prior violation of the same provisions is guilty of a felony and is subject to imprisonment for up to 25 years. If the violation results in the death of the victim, the violator is subject to imprisonment for up to 30 years.

Chapter 167 also established that the then existing crime of child abuse, which does not result in serious physical injury to or the death of the victim, is child abuse in the second degree and is subject to a maximum term of imprisonment of 15 years. In addition to other prohibitions, the second degree child abuse statute specifically prohibits a household member or family member from causing abuse to a minor.

A sentence may be separate from and consecutive to or concurrent with a sentence for any crime based on the act that establishes the violation.

Background: The Maryland Commission on Criminal Sentencing Policy advises that there were 14 convictions in Maryland's circuit courts for child abuse in the first degree and an additional 9 convictions for first degree child abuse resulting in death in fiscal 2010.

State Expenditures: General fund expenditures increase minimally as a result of the bill's expanded application of a current incarceration penalty due to more people being committed to Division of Correction (DOC) facilities. The number of additional people convicted of first degree child abuse as a result of the bill 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 \$2,920 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 about \$390 per month. Excluding all medical care, the average variable costs total \$170 per month.

Local Revenues: Revenues increase minimally as a result of the bill's expanded application of current monetary penalty provisions in circuit court cases.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Commission on Criminal Sentencing Policy, Judiciary (Administrative Office of the Courts), Office of the Public Defender, Department of Public Safety and Correctional Services, Department of Legislative Services

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ncs/kdm

Analysis by: Amy A. Devadas

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