

Department of Legislative Services
Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE

Senate Bill 295 (Senator Shank)
Judicial Proceedings

Justice's Law

This bill expands the list of persons who can be convicted of first degree child abuse to specifically include a family member or household member. The bill also increases the maximum penalties for first degree child abuse resulting in death of the victim and a subsequent conviction for child abuse resulting in death of the victim from 30 years imprisonment to imprisonment for life.

Fiscal Summary

State Effect: Minimal. It is assumed that any increased incarceration costs for the Division of Correction (DOC) stemming from the bill are not significant. Any increase in the workload for the Office of the Public Defender can be handled with existing budgeted resources. Revenues are not affected.

Local Effect: Minimal. Any increased caseload for the circuit courts or the State's Attorneys' offices resulting from the bill can be handled with existing budgeted resources.

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.

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 bill is named for Justice Christopher Calvin Myers-Cannon, a baby boy who was killed due to severe blunt force trauma in January 2007. The man who was charged in his death was convicted of involuntary manslaughter and first degree child abuse. He was sentenced to 10 years imprisonment for the involuntary manslaughter charge and 30 years imprisonment for first degree child abuse, with 10 years of the child abuse sentence suspended. The sentences are to be served consecutively. Upon release, he must serve 4 years of supervised probation.

The Maryland Commission on Criminal Sentencing Policy advises that in fiscal 2008, there were two convictions for child abuse that resulted in death and four convictions in fiscal 2007. Between January 1, 2004, and June 30, 2006 (30 months), there were 13 individuals convicted of first degree child abuse with death of the victim.

State Expenditures: General fund expenditures may increase minimally as a result of the bill's changes to incarceration penalties for the affected offenses due to people potentially being committed to DOC facilities for longer periods of time.

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.

Additional Information

Prior Introductions: Similar bills have been introduced in the House. HB 523 of 2010 and HB 426 of 2008 were heard in the House Judiciary Committee but received no further action. HB 1014 of 2009 received an unfavorable report from the House Judiciary Committee.

Cross File: Although designated as a cross file, HB 968 (Delegate Parrott, *et al.* – Judiciary) is not identical.

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 State Police, Department of Legislative Services

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