

Department of Legislative Services
Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE
Revised

House Bill 1295
Judiciary

(Delegate Carter, *et al.*)

Judicial Proceedings

Juvenile Law - Transfer of Cases to Juvenile Court

This bill repeals a provision of law that prohibits a court exercising criminal jurisdiction in a case involving a child from transferring the case to the juvenile court under reverse waiver provisions if the child was previously transferred to juvenile court and adjudicated delinquent.

Fiscal Summary

State Effect: Since it is assumed that the bill applies in a limited number of cases, State finances are not materially affected.

Local Effect: Since it is assumed that the bill applies in a limited number of cases, local finances are not materially affected.

Small Business Effect: None.

Analysis

Current Law: In general, the juvenile court has jurisdiction over a child alleged to be delinquent, in need of supervision, or who has received a citation for alcoholic beverage violations. The juvenile court may waive jurisdiction over a child alleged to be delinquent who is age 15 or older, or who is younger than age 15 and is charged with committing an act which, if committed by an adult, would be punishable by death or life imprisonment. The court may waive its jurisdiction only after it has conducted a waiver hearing held prior to the adjudicatory hearing and after notice has been given to all parties. The court may not waive its jurisdiction over a case unless it determines, from a preponderance of the evidence presented at the hearing, that the child is an unfit subject for juvenile rehabilitative measures. The following criteria must be considered by the

court: (1) the child's age; (2) the mental and physical condition of the child; (3) the child's amenability to any available treatment; (4) the nature of the offense and the child's alleged participation in it; and (5) public safety. These criteria must be considered individually and in relation to each other on the record. If jurisdiction is waived, the court must order the child held for trial under the regular procedures of the court which would have jurisdiction over the offense if committed by an adult.

The juvenile court does not have jurisdiction over children at least age 16 who are alleged to have committed specified violent crimes, children age 14 and older charged with a capital crime, and children who have previously been convicted as an adult of a felony and are subsequently alleged to have committed an act that would be a felony if committed by an adult. However, a circuit court may transfer a case involving such a child to the juvenile court if such a transfer is believed to be in the interests of the child or society ("reverse waiver"). A reverse waiver is not permitted if (1) the child was previously transferred to juvenile court and adjudicated delinquent; (2) the child was convicted from an unrelated case excluded from the jurisdiction of the juvenile court because the child was at least age 14 charged with a crime punishable by death or life imprisonment or was at least age 16 and alleged to have committed specified violent crimes; or (3) the alleged crime is murder in the first degree and the accused child was 16 or 17 years of age when the alleged crime was committed. At a transfer hearing, the court must consider the same criteria as set forth above relating to a waiver, and may order that a study be made concerning the child, the child's family and environment, and other matters concerning the disposition of the case.

State/Local Fiscal Effect: The Department of Juvenile Services (DJS) advises that specific data regarding the number of juveniles who are subject to the bill's provisions is limited and not readily available for inclusion in this estimate. However, a preliminary review of available information indicates that the bill applies to a very limited number of cases. Accordingly, any potential minimal increase in general fund expenditures due to additional juveniles being detained in DJS facilities pending trial and/or committed to DJS for placement after being adjudicated delinquent in the juvenile court does not materially impact State finances. In addition, since it is assumed that the bill applies in a limited number of cases, any corresponding potential minimal decrease in expenditures for State or local correctional facilities does not materially impact State or local finances. The bill also does not materially impact the workload of the Judiciary.

Additional Information

Prior Introductions: None.

Cross File: SB 515 (Senator Gladden, *et al.*) - Judicial Proceedings.

Information Source(s): Judiciary (Administrative Office of the Courts), Department of Juvenile Services, Department of Legislative Services

Fiscal Note History: First Reader - February 21, 2014
mc/kdm Revised - Enrolled Bill - May 12, 2014

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