

Department of Legislative Services  
Maryland General Assembly  
2015 Session

FISCAL AND POLICY NOTE

Senate Bill 208 (Senator Young, *et al.*)  
Judicial Proceedings

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Family Law - Rehoming of Adopted Children

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This bill prohibits a person from “rehoming” or committing specified acts related to the “rehoming” of a child who is the subject of a guardianship or adoption order. A violator is guilty of a felony and subject to maximum penalties of five years imprisonment and/or a \$10,000 fine.

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Fiscal Summary

**State Effect:** Potential minimal increase in general fund expenditures due to the bill’s penalty provision. The bill does not materially impact the workload of the Judiciary or the Office of the Public Defender.

**Local Effect:** Potential minimal increase in revenues and expenditures due to the bill’s penalty provision. The bill does not materially impact the workload of the circuit courts or state’s attorneys.

**Small Business Effect:** None.

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Analysis

**Bill Summary:** “Rehome” means transferring physical custody of a child who is the subject of a guardianship or an adoption order to an individual not related by blood or marriage to an adoptive parent or a legal guardian of the child (1) with the intent of permanently divesting the adoptive parent or legal guardian of parental responsibilities with respect to the child and (2) without prior approval of a court. Rehoming does not include (1) transferring physical custody of a child to a licensed attorney, a child placement agency, or the Department of Human Resources; (2) transferring physical

custody of a child to another person on a temporary basis due to a vacation or school-sponsored activity or the incarceration, military service, medical treatment or temporary incapacity of the child's adoptive parent or legal guardian; (3) placing a child in another state in accordance with provisions of law related to the Interstate Compact on Placement of Children; or (4) relinquishing a child in accordance with specified statutory provisions relating to immunity from liability for an individual who leaves an unharmed newborn child with a responsible adult.

The bill also prohibits a person from (1) advertising, recruiting, or soliciting a child for rehoming; (2) harboring, transporting, transferring, or receiving a child for the purpose of rehoming the child; (3) entering into any agreement, with or without valuable consideration, to rehome a child; (4) conspiring in the commission of an act prohibited by these provisions; or (5) acting as an accessory to any of these acts.

**Current Law/Background:** Although parents of a minor child are responsible for the child's support, care, nurture, welfare, and education, State law does not specifically prohibit the practice of rehoming and no federal laws prohibit the exchange of unwanted adopted children.

According to the American Bar Association, an increase in foreign adoptions and the inability of some parents to handle troubled youth has resulted in an epidemic known as "rehoming," which is when an individual (other than a licensed attorney, a child placement agency, or a local department of social services) seeks an alternative home for an adopted child, often through placing an ad on the Internet. Children who are rehomed may end up in homes where they are subject to abuse or neglect by their new guardians. In 2014, Wisconsin became the first state to criminalize the practice of rehoming. The law makes it illegal for anyone not licensed by the state to advertise a child older than age one for adoption or any other custody transfer. Louisiana also enacted a similar law in 2014.

**State Expenditures:** General fund expenditures may increase minimally as a result of the bill's incarceration penalty due to more people being committed to State correctional facilities and increased payments to counties for reimbursement of inmate costs. The number of people convicted of this proposed crime is expected to be minimal.

Persons serving a sentence longer than 18 months are incarcerated in State correctional facilities. Currently, the average total cost per inmate, including overhead, is estimated at \$3,100 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 State inmate (including variable health care costs) is about \$770 per month. Excluding all health care, the average variable costs total \$200 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 a State correctional facility. Prior to fiscal 2010, the State reimbursed counties for part of their incarceration costs, on a per diem basis, after a person had served 90 days. Currently, the State provides assistance to the counties for locally sentenced inmates and for inmates who are sentenced to and awaiting transfer to the State correctional system. A \$45 per diem grant is provided to each county for each day between 12 and 18 months that a sentenced inmate is confined in a local detention center. Counties also receive an additional \$45 per day grant for inmates who have been sentenced to the custody of the State but are confined in a local facility. The State does not pay for pretrial detention time in a local correctional facility. Persons sentenced in Baltimore City are generally incarcerated in State correctional facilities. The Baltimore City Detention Center, a State-operated facility, is used primarily for pretrial detentions.

**Local Revenues:** Potential minimal increase in local revenues as a result of the bill's monetary penalty provision from cases heard in the circuit courts.

**Local Expenditures:** Potential minimal increase in expenditures as a result of the bill's incarceration penalty. Counties pay the full cost of incarceration for people in their facilities for the first 12 months of the sentence. A \$45 per diem State grant is provided to each county for each day between 12 and 18 months that a sentenced inmate is confined in a local detention center. Counties also receive an additional \$45 per day grant for inmates who have been sentenced to the custody of the State but are confined in a local facility. Per diem operating costs of local detention facilities have ranged from approximately \$60 to \$160 per inmate in recent years.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Maryland State Commission on Criminal Sentencing Policy, Judiciary (Administrative Office of the Courts), Office of the Public Defender, State's Attorneys' Association, American Bar Association, Department of Legislative Services

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