

Department of Legislative Services
Maryland General Assembly
2018 Session

FISCAL AND POLICY NOTE
Enrolled - Revised

Senate Bill 160

(Senator Nathan-Pulliam, *et al.*)

Judicial Proceedings

Judiciary

Juvenile Law – Truancy

This bill expands statewide the application of an affirmative defense for individuals charged with an alleged violation of specified offenses relating to truancy. The bill also alters the relevant age of a child for purposes of the application of a criminal charge against a person who fails to see that a child attends school or receives educational instruction, as specified, and alters related penalty provisions. **The bill takes effect July 1, 2018.**

Fiscal Summary

State Effect: The bill does not materially impact State operations or finances.

Local Effect: The bill does not materially impact local operations or finances.

Small Business Effect: None.

Analysis

Bill Summary: It is an affirmative defense if a person with legal custody or care and control of a child at the time of an alleged violation made reasonable and substantial efforts to see that the child attended school as required by law but was unable to cause the child to attend school. On a finding that the affirmative defense is valid, the court must dismiss the charge.

The bill alters the age of a child, from younger than age 18 to younger than age 16, for purposes of the application of a criminal charge against a person with legal custody or care and control of a child age 5 or older who fails to see that the child attends school or receives educational instruction. It reduces, from 10 days to 3 days for a first conviction and from

30 days to 5 days for a second or subsequent conviction, the maximum period of incarceration that may be imposed. The bill also authorizes a court to order a person convicted of such offenses to perform community service in addition to the specified penalties.

Current Law/Background: Any person with legal custody or care and control of a child who is older than age 5 and younger than 18 who fails to see that the child attends school or receives educational instruction is guilty of a misdemeanor and subject to maximum penalties of a \$50 fine per day of unlawful absence or 10 days imprisonment for a first offense. A second or subsequent conviction is subject to maximum penalties of a \$100 fine per day of unlawful absence or 30 days imprisonment.

The affirmative defense expanded by this bill is already available to counties in which the circuit administrative judge has established a Truancy Reduction Pilot Program. Chapter 551 of 2004 authorized the first truancy reduction pilot programs in the juvenile courts in Dorchester, Somerset, Wicomico, and Worcester counties. Similar to drug courts, truancy courts are problem-solving courts in which cases are heard on a special docket by the same judge each month. The courts hold regular hearings in each case to review a child's progress toward full attendance and to address the causes of the child's truancy. A social worker, counselor, or case manager works with the families to determine the reasons for poor attendance and makes referrals for appropriate community-based services. Chapter 718 of 2009 repealed the termination dates on truancy reduction pilot programs. According to the Judiciary's *Problem-Solving Courts Annual Report* for Fiscal 2017, truancy reduction pilot programs were active in Dorchester, Harford, Kent, Prince George's, Somerset, Talbot, Wicomico, and Worcester counties and served 273 individuals.

Additional Information

Prior Introductions: None.

Cross File: HB 319 (Delegate Sydnor, *et al.*) - Judiciary.

Information Source(s): Judiciary (Administrative Office of the Courts); Office of the Public Defender; Maryland State's Attorneys' Association; Department of Legislative Services

Fiscal Note History:
mag/kdm

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