

Department of Legislative Services
 Maryland General Assembly
 2018 Session

FISCAL AND POLICY NOTE
 First Reader

House Bill 827 (Delegate West)
 Judiciary

Juvenile Law - Juvenile Diversion Program

This bill authorizes a court exercising criminal jurisdiction in a case involving a child that was excluded from the jurisdiction of the juvenile court under specified provisions to suspend the sentence and place the child under the supervision of the Department of Juvenile Services (DJS) under specified conditions. DJS must establish a juvenile diversion program to provide an alternative to imprisonment for a child placed under the supervision of DJS pursuant to the bill’s provisions.

Fiscal Summary

State Effect: General fund expenditures increase by \$3.1 million in FY 2019 to develop the juvenile diversion program, as discussed below. Future years reflect annualization. No effect on revenues.

(\$ in millions)	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	3.1	4.0	4.0	4.1	4.1
Net Effect	(\$3.1)	(\$4.0)	(\$4.0)	(\$4.1)	(\$4.1)

Note: () = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: The bill is not anticipated to materially affect local operations or finances.

Small Business Effect: Minimal.

Analysis

Bill Summary: The child must be placed under the supervision of DJS for a definite period of time, not to exceed 18 months, for enrollment in a juvenile diversion program. The bill

does not apply to a child who was convicted of any sexual offense, second-degree murder or rape, or attempted second-degree murder or rape. Supervision of the child by DJS may not continue after the child reaches age 21. The court must hold a hearing before placing the child under the supervision of DJS for enrollment in the program. At the hearing, a caseworker must advise the child of the responsibilities of enrollment in the program. After being advised, the child may choose to enroll in the program or serve the sentence imposed by the court.

The program must provide specified services to each child enrolled in the program, including individual case management, resocialization programs, psychological evaluations, an educational curriculum, mandatory drug testing, vocational training, and programs aimed at demonstrating atonement to victims.

The bill also establishes a special services committee of the program, which must meet quarterly to discuss the progress of each child in the program. It must evaluate whether the child successfully completed the programs and services and whether the psychological evaluations indicate that the child has a low risk of reoffending. If the child successfully completes the program requirements, the committee may recommend that the child be released from the program; if the child fails to successfully complete the program requirements, the committee may recommend that the child be referred to the court for a hearing. The committee's recommendations must be referred to DJS. After receiving a recommendation, DJS must certify to the court whether the child successfully completed or failed to successfully complete the program requirements.

On successful completion of the program, the court must enter an order striking the entry of judgment and place the child under the supervision of DJS for purposes of participation in an aftercare program. The aftercare program must consist of weekly meetings with the child's caseworker, drug testing, and a mentorship program under the Maryland Rising Program. If, after the hearing, the court finds that the child failed to successfully complete the program, the court must impose any sentence that was originally imposed for the crime for which the child was convicted. Any time served by the child under the supervision of DJS is credited against any sentence of incarceration imposed by the court.

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 specified violations. The juvenile court does not have jurisdiction over children at least age 16 who are alleged to have committed specified violent crimes. However, subject to specified exceptions, 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"). At a transfer hearing, the court must consider specified criteria 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.

The “Maryland Rising” program attempts to provide a volunteer mentor for each child in the State who has spent at least 30 days in a committed placement. The program’s purpose is to provide individualized attention to a child to decrease the child’s delinquent or violent behavior and increase the child’s potential for becoming a productive, successful member of the community.

State Expenditures: General fund expenditures increase by \$3,062,440 in fiscal 2019, which accounts for the bill’s October 1, 2018 effective date. This estimate reflects the cost of hiring 15 staff (3 administrators, 10 case management specialists, and 2 supervisors) to oversee the juvenile diversion program. It also includes contractual services for psychological services and counseling, and additional programming, as required by the bill. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses. The information and assumptions used in calculating the estimate are stated below:

- the program is an alternative to imprisonment and, as such, is community-based;
- approximately 105 youth are served annually in the program;
- nonresidential programming costs are \$25,000 per youth (\$2,625,000 annually and \$1,968,750 in fiscal 2019); and
- psychological services/counseling costs are \$250,000 annually (\$187,500 in fiscal 2019).

Positions	15
Salaries and Fringe Benefits	\$825,809
Contractual Services	2,156,250
Operating Expenses	<u>80,381</u>
Total FY 2019 State Expenditures	\$3,062,440

Future year expenditures reflect full salaries with annual increases and employee turnover and ongoing operating expenses.

However, if the bill is intended to commit program participants to DJS facilities instead, expenditures are *significantly* higher than those outlined above. Furthermore, DJS advises that such implementation must take place over multiple years, as additional facilities need to be constructed and staffed in order to house the new population of juveniles. *Excluding capital costs*, operating expenditures exceed \$19.3 million annually once the new facilities are operational.

General fund expenditures may increase minimally for the Office of the Public Defender to continue monitoring the cases of juveniles who are sentenced to the program. Although it is assumed that the bill diverts juveniles from the adult criminal system, it is not anticipated to materially impact expenditures of the Department of Public Safety and Correctional Services. It also does not materially impact the workload of the Judiciary.

Local Expenditures: The bill is not anticipated to materially impact local incarceration costs or the workload of the circuit courts.

Additional Information

Prior Introductions: None.

Cross File: SB 669 (Senators Brochin and Smith) - Judicial Proceedings.

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

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md/kdm

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