

Department of Legislative Services
Maryland General Assembly
2019 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 561
Judiciary

(Delegate Guyton, *et al.*)

Criminal Law - Abuse or Neglect of a Vulnerable Adult - Psychological Abuse

This bill adds “psychological abuse” to the definition of “abuse” applicable to the prohibitions on abuse or neglect of a vulnerable adult in the first and second degrees.

Fiscal Summary

State Effect: Minimal increase in general fund revenues and expenditures due to the bill’s expanded application of existing penalty provisions.

Local Effect: Minimal increase in local revenues and expenditures due to the bill’s expanded application of existing penalty provisions.

Small Business Effect: None.

Analysis

Bill Summary: The bill expands the definition of “abuse” to include the sustaining of “psychological abuse” by a vulnerable adult. “Psychological abuse” means the intentional use of “verbal or other conduct” resulting in a vulnerable adult’s humiliation, intimidation, agitation, confusion, severe depression or other form of severe emotional distress, or apprehension of fear.

“Verbal or other conduct” means threats; insults; name-calling; neglect; isolation from friends and family; deceptive or misleading statements made with a malicious intent to agitate or harm the vulnerable adult; the destruction or harm of an animal owned by the vulnerable adult; or the distribution, display, or transmission of information identifying and

about the vulnerable adult using social media if the distribution, display, or transmission is made without the vulnerable adult's permission.

Current Law: Sections 3-604 and 3-605 of the Criminal Law Article prohibit the abuse or neglect of a vulnerable adult. "Abuse" means the sustaining of physical pain or injury by a vulnerable adult as a result of cruel or inhumane treatment or as a result of a malicious act under circumstances that indicate that the vulnerable adult's health or welfare is harmed or threatened. "Abuse" includes the sexual abuse of a vulnerable adult. "Abuse" does not include an accepted medical or behavioral procedure ordered by a health care provider authorized to practice under the Health Occupations Article or emergency medical personnel acting within the scope of the health care provider's practice.

A caregiver, a parent, or other person who has permanent or temporary care or responsibility for the supervision of a vulnerable adult may not cause abuse or neglect of the vulnerable adult that results in death, causes serious physical injury, or involves sexual abuse. The same prohibition applies to a household member or family member.

A violator is guilty of the felony of abuse or neglect of a vulnerable adult in the first degree and subject to maximum penalties of 10 years imprisonment and/or a fine of \$10,000. A sentence imposed under this provision must be in addition to any other sentence imposed for a conviction arising from the same facts and circumstances unless the evidence required to prove each crime is substantially identical.

Under the second-degree prohibition, a caregiver, a parent, or other person who has permanent or temporary care or responsibility for the supervision of a vulnerable adult may not cause abuse or neglect of the vulnerable adult. A household member or family member may not cause abuse or neglect of a vulnerable adult. A violator is guilty of a misdemeanor and subject to maximum penalties of imprisonment for five years and/or a \$5,000 fine. A sentence imposed under this provision must be in addition to any other sentence imposed for a conviction arising from the same facts and circumstances unless the evidence required to prove each crime is substantially identical. The second-degree prohibition does not apply to sexual abuse of a vulnerable adult.

Background: The Maryland State Commission on Criminal Sentencing Policy (MSCCSP) advises that a review of the Maryland Sentencing Guidelines Database indicates that MSCCSP received information for five individuals sentenced for abuse or neglect of a vulnerable adult in the first degree and six individuals sentenced for abuse or neglect of a vulnerable adult in the second degree in the State's circuit courts during fiscal 2018.

State Revenues: General fund revenues increase minimally as a result of the bill's expanded application of existing monetary penalty provisions from cases heard in the District Court.

State Expenditures: General fund expenditures increase minimally as a result of the bill's expanded application of existing incarceration penalties 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. While the bill applies to abuse or neglect of a vulnerable adult in the first and second degrees, given the level of abuse required to meet the criteria for the first-degree offense, this estimate assumes that it is unlikely that "psychological abuse," as defined in the bill, will result in additional convictions for abuse or neglect of a vulnerable adult in the first degree.

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 \$3,800 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. The State provides assistance to the counties for locally sentenced inmates and for (1) inmates who are sentenced to and awaiting transfer to the State correctional system; (2) sentenced inmates confined in a local detention center between 12 and 18 months; and (3) inmates who have been sentenced to the custody of the State but are confined in or who receive reentry or other prerelease programming and services from 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 Pretrial Complex, a State-operated facility, is used primarily for pretrial detentions.

Local Revenues: Revenues increase minimally as a result of the bill's expanded application of existing monetary penalty provisions from cases heard in the circuit courts.

Local Expenditures: Expenditures increase minimally as a result of the bill's expanded application of an existing incarceration penalty. Counties pay the full cost of incarceration for people in their facilities for the first 12 months of the sentence. Per diem operating costs of local detention facilities have ranged from approximately \$40 to \$170 per inmate in recent years.

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; Maryland State's Attorneys' Association; Department of Legislative Services

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Analysis by: Amy A. Devadas

Direct Inquiries to:
(410) 946-5510
(301) 970-5510