

Department of Legislative Services
Maryland General Assembly
2019 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 626

(Senator Carter)

Judicial Proceedings

Juvenile Court - Jurisdiction

This bill expands the jurisdiction of the juvenile court to establish original jurisdiction over children (1) older than age 14 who are alleged to have done an act which, if committed by an adult, would be a crime punishable by life imprisonment and (2) older than age 16 who are alleged to have committed specified crimes. It repeals provisions that exclude such children from the juvenile court's jurisdiction unless a reverse waiver order has been filed.

Fiscal Summary

State Effect: The bill is not anticipated to materially impact State operations or finances.

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

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 specified violations. 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 the child was convicted in an unrelated case excluded from the jurisdiction of the juvenile court or the alleged crime is

murder in the first degree and the accused child was at least age 16 when the alleged crime was committed. 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. Statutory provisions also set forth a process by which a court exercising criminal jurisdiction in a case involving a child must determine whether to transfer jurisdiction to a juvenile court at sentencing.

The juvenile court may waive its jurisdiction with respect to a petition alleging delinquency if the petition concerns a child who is at least 15 years old or a child who is charged with committing an act which, if committed by an adult, would be punishable by 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.

State and Local Fiscal Effect: The bill is not anticipated to materially impact State or local finances. Although the bill expands the jurisdiction of the juvenile court, statutory provisions already provide a method by which the juvenile court may still hear these cases, through the reverse waiver process as described above. In addition, juveniles pending charges in adult court are generally already held in juvenile facilities pending a transfer determination (reverse waiver) by the court, mitigating any material impact on pretrial detention costs. Furthermore, the Department of Juvenile Services (DJS) notes that youth charged as adults who are detained in juvenile facilities pending reverse waiver hearings have significantly longer lengths of stay than youth charged as juveniles. In fiscal 2018, the average length of stay in a juvenile detention facility for a youth charged as an adult was 124.2 days; the average length of stay for a youth charged as a juvenile and awaiting adjudication was 18.3 days. The difference in the length of stay is attributed to the strict statutory timeframes that exist in the juvenile system. Therefore, DJS anticipates that cases would be resolved in a more efficient manner if all youth-involved cases originate in the juvenile system.

The Judiciary and the Office of the Public Defender also advise that there is no material impact. The bill is not anticipated to materially affect State's Attorneys' offices.

Additional Information

Prior Introductions: HB 471 of 2017, a similar bill, received an unfavorable report from the House Judiciary Committee. Its cross file, SB 215, received an unfavorable report from the Senate Judicial Proceedings Committee. HB 266 of 2016 received a hearing in the House Judiciary Committee, but no further action was taken. Its cross file, SB 498, received

a hearing in the Senate Judicial Proceedings Committee, but no further action was taken. SB 243 of 2016, a similar bill, received an unfavorable report from the Senate Judicial Proceedings Committee. Its cross file, HB 304, received an unfavorable report from the House Judiciary Committee. Similar bills were introduced in 2013.

Cross File: None.

Information Source(s): Harford County; 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 Juvenile Services; Department of Public Safety and Correctional Services; Department of Legislative Services

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