

Department of Legislative Services
 Maryland General Assembly
 2020 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 207

(Senator Washington, *et al.*)

Education, Health, and Environmental Affairs

Appropriations

Unaccompanied Minors in Need of Shelter and Supportive Services

This bill authorizes an “unaccompanied minor in need of shelter” to consent to shelter and supportive services under specified circumstances. Among other requirements, before providing shelter to an unaccompanied minor, shelters and service providers must register with the Department of Housing and Community Development (DHCD) and develop and implement a procedure to screen each staff member who works with minors, including through a State and national criminal history records check or a private agency background check. **The bill takes effect July 1, 2020.**

Fiscal Summary

State Effect: General fund expenditures increase by \$20,000 in FY 2021 only. Any criminal history records check fees collected by the Criminal Justice Information System Central Repository (CJIS-CR) offset costs and are not reflected in this analysis.

(in dollars)	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	20,000	0	0	0	0
Net Effect	(\$20,000)	\$0	\$0	\$0	\$0

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

Local Effect: Local expenditures may increase to provide additional services to unaccompanied minors in need of shelter. Local revenues are not affected.

Small Business Effect: Minimal.

Analysis

Bill Summary:

Definitions

An “unaccompanied minor in need of shelter” is defined as a minor who is not in the physical custody of a parent or guardian and (1) who lacks a fixed, regular, and adequate nighttime residence, as specified, or (2) whose status or circumstances indicate a significant danger of experiencing homelessness in the near future.

A “service provider” is a public or private nonprofit organization that provides shelter and supportive services to an unaccompanied minor in need of shelter and includes a host home program.

“Supportive services” means interventions, services, or resources necessary to assist unaccompanied minors in need of shelter in acquiring or maintaining (1) stable housing; (2) permanent connections, including specified interpersonal relationships; (3) education and employment, including specified training activities; or (4) social and emotional well-being, including specified development competencies.

Consent to Shelter and Supportive Services

An unaccompanied minor in need of shelter may consent to shelter and supportive services if the service provider reasonably believes that (1) the unaccompanied minor understands the significant benefits, responsibilities, risks, and limits of the shelter and services and can communicate informed consent; (2) the unaccompanied minor understands the requirements and rules of the shelter and services; and (3) the shelter and services are necessary to ensure the unaccompanied minor’s safety and well-being. An unaccompanied minor in need of shelter who is a parent may consent to shelter and supportive services for the minor’s child.

Responsibilities of Sheltering and Supportive Services

Before providing shelter and supportive services, a service provider must (1) register with DHCD; (2) develop and implement a procedure to screen each staff member who works with minors, including through a State and national criminal history records check or a private agency background check; and (3) obtain written consent from an unaccompanied minor in need of shelter. The written consent must state the age, guardianship status, and living situation of the unaccompanied minor. A service provider may not provide shelter to a minor if the service provider has knowledge that the minor provided false information

in the written consent or does not meet the definition of an unaccompanied minor in need of shelter.

Service Provider and Supportive Services Notification Requirements

After providing shelter to an unaccompanied minor in need of shelter, a service provider must (1) contact a parent, a guardian, or an adult relative of the unaccompanied minor in need of shelter as soon as possible and within 72 hours or (2) if the service provider suspects abuse or neglect by the parent, guardian, or adult relative of the minor, or any abuse or neglect of the unaccompanied minor in need of shelter, immediately notify the appropriate authorities in accordance with existing statutory provisions.

If a service provider is unable to contact, and does not suspect abuse by, a parent, a guardian, or an adult relative of an unaccompanied minor in need of shelter, the service provider must notify the minor of the above notification requirements and, after providing notice, contact the National Center for Missing and Exploited Children to determine if the minor has been reported missing by a legal guardian. If a service provider receives information indicating that an unaccompanied minor in need of shelter is missing from foster care, the service provider must contact the local department of social services. If a service provider receives information indicating that an unaccompanied minor in need of shelter has been reported missing by a legal guardian other than the local department of social services, the service provider must contact local law enforcement. A service provider must document these efforts and communications.

Service Provider and Supportive Services Liability Immunity

A service provider that provides shelter and supportive services to an unaccompanied minor in need of shelter in accordance with the bill is not civilly or criminally liable or subject to a disciplinary penalty based solely on the provider's reasonable determination to provide the shelter and supportive services.

Establishment of Service Provider Registry and Regulations

DHCD must establish and maintain a registry of all service providers offering sheltering and supportive services to unaccompanied minors in need of shelter.

DHCD must adopt regulations to carry out the bill's provisions. The regulations must require each service provider to provide training for each staff member who serves minors regarding mandatory reporting of suspected abuse or neglect in accordance with existing statutory provisions. The regulations must also include prohibitions against service providers knowingly hiring or retaining an individual who has been convicted of specified crimes.

Criminal Background Checks for Service Provider Staff

A service provider must, for each staff member who works with unaccompanied minors, apply to CJIS-CR for a State and national criminal history records check or request a private agency to conduct a background check. As part of an application to CJIS-CR, the service provider must submit to CJIS-CR (1) one complete set of legible fingerprints, as specified; (2) the applicable fees in accordance with existing statutory provisions; and (3) the mandatory processing fee required by the Federal Bureau of Investigation for a national criminal history records check. In accordance with existing statute, CJIS-CR must forward the criminal history record information of the staff member to the service provider.

The information obtained from CJIS-CR is confidential, may not be disseminated, and may only be used for authorized screening purposes. A person who is the subject of a criminal history records check may contest the contents of the printed statement issued by CJIS-CR, as specified.

If a service provider requests a private agency to conduct a background check, the private agency must (1) conduct a background check in each state where the service provider knows or has reason to believe the staff member worked or resided during the past seven years and (2) issue a statement of the private agency's findings to the service provider and, upon request, the staff member. The staff member must have an opportunity to contest the findings of the private agency.

Current Law/Background:

Workgroup to Study the Shelter and Supportive Services for Unaccompanied Homeless Minors

Chapter 553 of 2019 established the Workgroup to Study the Shelter and Supportive Services for Unaccompanied Homeless Minors. The workgroup was required to, among other things, study the unique needs of unaccompanied homeless minors, identify the public and private sector programs and resources available to meet those needs, identify barriers unaccompanied homeless minors face in accessing safe shelter, and compile information on and study shelter practices in other states.

The workgroup was also required to make recommendations regarding (1) legislation, regulations, and policy initiatives to address the needs of unaccompanied homeless minors in the State; (2) funding requirements and budgetary priorities necessary to address these needs; and (3) any other relevant issues or considerations identified by the workgroup.

In its [final report](#), the workgroup recommended that legislation be introduced to (1) allow minors to consent to housing and shelter services; (2) require minors to understand the responsibilities, risks, and limits of the shelter and services; and (3) establish a registry of service providers that serve unaccompanied homeless minors. The bill addresses those three recommendations.

Consent and Age of Majority, Generally

A person who is age 18 or older is an adult for all purposes and has the legal capacity, rights, privileges, powers, and duties of adults. Article 1, § 24 of the Annotated Code of Maryland establishes that the age of majority is age 18. Except as otherwise specified, the term “minor,” as it pertains to legal age and capacity means an individual younger than age 18. Pursuant to the Health-General Article, a minor has the same capacity as an adult to consent to medical or dental treatment under specified circumstances.

State Efforts to Address Youth Homelessness

The Office of Community Programs within DHCD oversees efforts to reduce homelessness in the State. DHCD does not provide direct housing placement or emergency support services specifically to homeless individuals; instead, it coordinates with and awards grant funding to local administering agencies and service providers to support various programs.

The most recent Youth Count, a project that attempts to identify unaccompanied homeless youth (ages 25 and younger) in the State, identified almost 3,000 unaccompanied homeless youth in Maryland, 14% of whom were younger than age 17. According to SchoolHouse Connection, at least eight states have laws that authorize unaccompanied homeless minors to consent to shelter services.

Missing Children, Generally

After receiving a report regarding a missing child by a law enforcement agency, the law enforcement agency must immediately determine if (1) the missing child has not been the subject of a prior missing persons report; (2) the missing child suffers from a mental or physical handicap or illness; (3) the disappearance of the missing child is of a suspicious or dangerous nature; (4) the person filing the report of a missing child has reason to believe that the missing child may have been abducted; (5) the missing child has ever previously been the subject of a child abuse report filed with the State or local law enforcement agency; or (6) the missing child is younger than age 17.

If the law enforcement agency concludes that any one of the specified conditions exists, the agency must immediately, among other things, notify the National Center for Missing and Exploited Children.

Mandatory Reporting of Child Abuse and Neglect

Mandatory reporters of child abuse include health care practitioners, police officers, educators, and human service workers who are acting in a professional capacity and who have reason to believe that a child has been subjected to abuse or neglect. Mandatory reporters must notify the local department of social services or the appropriate law enforcement agency. In general, a person other than a mandatory reporter who has reason to believe that a child has been subjected to abuse or neglect must notify the local department of social services or the appropriate law enforcement agency.

Criminal Justice Information System Central Repository

CJIS-CR was established within the Department of Public Safety and Correctional Services to collect, manage, and disseminate Maryland Criminal History Record Information (CHRI) for criminal justice and noncriminal justice (*e.g.*, employment and licensing) purposes. CJIS-CR is authorized by law to collect a fee for providing CHRI for purposes other than criminal justice. The Code of Maryland Regulations sets the fee at \$18. An additional \$20 fingerprinting fee is also collected. The FBI charges a fee of \$13.25 for a national CHRI check. Revenue from these fees is used to provide the service. CJIS-CR collects the fee from the applicant and reimburses the FBI. CJIS-CR submits requests for national criminal records to the FBI electronically.

State Expenditures: General fund expenditures for DHCD increase by \$20,000 in fiscal 2021 only for contractual information technology services to establish the electronic registry of shelters and service providers. Any ongoing maintenance and/or upgrades can be handled with existing resources.

DHCD advises that if it must actively monitor service providers and ensure compliance with the bill's provisions, the department would incur potentially significant additional costs in order to establish a monitoring and compliance team, including costs to hire additional staff. However, the bill does not explicitly require DHCD to enforce the bill; therefore, any such costs have not been included in this analysis.

It is assumed that any additional State-funded supportive services provided to unaccompanied minors in need of shelter resulting from the bill do not materially affect State finances. Any potential additional reports of suspected child abuse and neglect that result from the bill's changes can be investigated and acted upon using existing budgeted resources.

Local Expenditures: Local expenditures may increase in jurisdictions that fund homeless support services. The magnitude of any impact depends on the number of unaccompanied minors who may seek services under the bill who would not otherwise do so, and the type

of services provided. For example, Montgomery County provides significant local funding for homeless services and advises that its average cost to shelter an individual for one day is \$120. Charles County and the City of Havre de Grace both advise there is no fiscal impact.

Any potential additional reports of suspected child abuse and neglect that result from the bill's changes can be addressed using existing resources.

Additional Information

Prior Introductions: None.

Designated Cross File: HB 206 (Delegate Krimm, *et al.*) - Appropriations.

Information Source(s): Anne Arundel, Charles, and Montgomery counties; Maryland Association of Counties; City of Havre de Grace; Maryland Municipal League; Maryland State Treasurer's Office; Judiciary (Administrative Office of the Courts); Maryland State Department of Education; Maryland Department of Health; Department of Housing and Community Development; Department of Human Services; Department of Juvenile Services; Department of Public Safety and Correctional Services; Department of State Police; SchoolHouse Connection; Youth Reach Maryland; Department of Legislative Services

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