

**Department of Legislative Services**  
 Maryland General Assembly  
 2024 Session

**FISCAL AND POLICY NOTE**  
**First Reader**

Senate Bill 94 (Senator Watson, *et al.*)  
 Judicial Proceedings

**Juvenile Law - Intake and Probation**

This bill repeals a statutory provision that specifies that an intake officer in the Department of Juvenile Services (DJS) is not required to forward a complaint and case file to the State’s Attorney if the complaint alleges the commission of an act by a child that would be a felony if committed by an adult and specified conditions are met. Thus, under the bill, intake officers are required to forward these complaints and files to the State’s Attorney. The bill also extends time limits on juvenile probation.

**Fiscal Summary**

**State Effect:** As discussed below, general fund expenditures increase by *as much as* \$635,500 in FY 2025, which reflects expenditures for DJS and *maximum* expenditures for the Office of the Public Defender (OPD) to implement the bill. Future years reflect annualization and inflation. Revenues are not affected.

(in dollars)	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	635,500	749,600	783,000	817,300	853,200
Net Effect	(\$635,500)	(\$749,600)	(\$783,000)	(\$817,300)	(\$853,200)

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

**Local Effect:** The bill is not expected to materially affect the finances or operations of local governments.

**Small Business Effect:** None.

## Analysis

### Bill Summary/Current Law:

#### *Juvenile Intake Procedures*

Under current law, intake occurs when a complaint is filed by a police officer or other person or agency having knowledge of facts that may cause a child to be subject to the jurisdiction of the juvenile court. Within 25 days after a complaint is filed, a DJS intake officer is required to make an inquiry to determine whether the juvenile court has jurisdiction and whether judicial action is in the best interests of the public or the child. The intake officer may make any of the following decisions: (1) deny authorization to file a petition or a peace order request or both in the juvenile court; (2) propose an informal adjustment of the matter; or (3) authorize the filing of a petition or a peace order request or both in the juvenile court.

Statute requires that if a complaint alleges the commission of an act that would be a felony if committed by an adult or alleges a violation of § 4-203 (wearing, carrying, or transporting a handgun) or § 4-204 (use of a handgun or antique firearm in the commission of a crime) of the Criminal Law Article and the intake officer denies authorization to file a petition or proposes an informal adjustment, the intake officer must immediately forward the complaint and a copy of the entire intake case file, as specified, to the State's Attorney.

Under current law, an intake officer is *not required* to forward the complaint and copy of the file to the State's Attorney if the complaint alleges the commission of an act that would be a felony if committed by an adult and (1) the intake officer proposes the matter for informal adjustment; (2) the act did not involve the intentional causing of, or attempt to cause, the death of or physical injury to another; and (3) the act would not be a crime of violence, as defined under § 14-101 of the Criminal Article, if committed by an adult. *The bill repeals this provision.*

Under current law, upon receipt of a complaint from DJS, the State's Attorney must make a preliminary review as to whether the court has jurisdiction and whether judicial action is in the best interests of the public or the child, as specified. After the preliminary review, the State's Attorney must, within 30 days of receiving the complaint (unless the court extends the time) file a petition and/or a peace order request, refer the complaint to DJS for informal disposition, or dismiss the complaint.

#### *Time Limits on Juvenile Probation*

Under current law, when the most serious offense a child commits is an offense that would be a *misdemeanor* if committed by an adult, the court may place the child on probation for

up to six months. The court may extend this period by up to three months if, after a hearing, the court determines that there is good cause to extend the probation and the purpose of extension is to ensure the child completes a treatment or rehabilitative program or service. The overall term of probation, including extensions, may not exceed one year.

Currently, if a child commits an offense that would be a *felony* if committed by an adult, the court may place the child on probation for up to one year. The court may extend this period by up to three months if, after a hearing, the court determines that there is good cause to extend the probation and the purpose of extension is to ensure the child completes a treatment or rehabilitative program or service. The total period of probation may not exceed two years. However, the court may extend the total period of probation beyond two years if, after a hearing, the court finds by clear and convincing evidence that there is good cause for the extension and extending the probation is in the best interest of the child. However, if such an extension is granted, the total period of probation, including all extensions, may not exceed three years.

The bill extends time limits on juvenile probation. For offenses that would be a misdemeanor, the maximum initial probation period increases from six months to two years. Maximum extension periods remain at three months, but the total probation term, including extensions, increases from a one-year maximum to a three-year maximum. For offenses that would be a felony, the maximum initial probation period increases from one year to five years, the time limit for an extension remains at three months, but the total probation term, including extensions, increases from two years to six years. However, if after a hearing, the court finds by clear and convincing evidence that there is good cause to extend the probation and an extension is in the best interest of the child, the total period of probation increases from three years to six years, inclusive of all extensions. The bill also applies the felony probation time limits to a child whose most serious offense would be a crime involving a firearm if committed by an adult.

**State Fiscal Effect:** General fund expenditures for DJS increase by \$293,418 in fiscal 2025 to implement the bill's probation provisions; additional expenditures *may* be incurred due to the bill's changes to intake procedures. General fund expenditures for OPD increase *by as much as* \$342,117 in fiscal 2025, as discussed below; depending on adopted caseload standards and actual changes to OPD workloads under the bill, expenditures may be less.

#### *Department of Juvenile Services*

DJS advises that due to unknown variables, it cannot determine the overall cost of the bill at this time. However, with respect to legislation that made similar changes to intake procedures, DJS advised that the bill likely increases the number of youth detained, increases the number of youth in alternative to detention programs, and may increase the

number of youth committed to DJS. According to DJS, approximately 20% of nonviolent felony cases resulted in an informal adjustment or an outright resolution. Overall, nonviolent felonies represent 13% of juvenile complaints referred to the department in fiscal 2023. If the cases that did not go to court are forwarded to State’s Attorneys and eventually result in dispositions requiring more intense interventions that cannot be handled with existing budgeted resources, then general fund expenditures for DJS increase.

Regarding the bill’s changes to time limits for probation, DJS anticipates a potential increase in DJS personnel needed to supervise young people with extended lengths of supervision. DJS advises that it cannot determine the cost of this additional supervision at this time. Regardless, if the bill increases the amount of time that children under the jurisdiction of the department stay on probation, the bill may require additional DJS resources to accommodate decreased turnover of probation cases and increased provision of services. While the bill changes the maximum time limits for juvenile probation, DJS retains its current ability to request a court to terminate a probation case if a child is successful in their treatment plan.

With respect to legislation that proposed similar (but not identical) changes to the length of probation, DJS advised that it needed five case managers. Thus, this estimate assumes that general fund expenditures for DJS increase by \$293,418 in fiscal 2025, which accounts for the bill’s October 1, 2024 effective date. This estimate reflects the cost of hiring five probation case managers to accommodate the bill’s effect on the length of probation for children under DJS supervision. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Positions	5
Salaries and Fringe Benefits	\$257,138
Operating Expenses	<u>36,280</u>
<b>DJS FY 2025 Expenditures</b>	<b>\$293,418</b>

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

*Office of the Public Defender*

The bill’s changes to juvenile intake procedures and probation time limits likely increase OPD caseloads and workloads due to more formal dispositions of cases after referral to State’s Attorneys and longer juvenile probations. OPD advises that the projected change to the office’s workload requires three attorneys and one administrative employee. However, the Department of Legislative Services (DLS) advises that this is a *maximum* level of additional resources needed for OPD to implement the bill.

OPD is in the process of developing new Maryland-specific caseload standards; the current OPD standards were adopted in 2005. OPD appears to have calculated this need for personnel based on a 2022 Oregon workload study that included juvenile cases and was conducted by some of the same experts and used a similar methodology as the National Public Defense Workload Study, which was released in September 2023. The national standards use a different calculation/methodology than the 2005 OPD standards currently in use, which, according to the office, do not recognize the different levels of effort needed for different types of cases. According to OPD, juvenile cases are specialized and particularly resource-intensive, especially in cases involving younger children. DLS notes that as mentioned above, OPD has not adopted new Maryland-specific caseload standards yet, and the Oregon standards are noticeably lower than current OPD caseload standards. For context, according to information prepared pursuant to the 2023 *Joint Chairmen’s Report*, OPD noted that based on fiscal 2023 data, it would need 947 additional attorneys to meet the national caseload standards that used a similar methodology as the Oregon caseload study OPD likely used in its calculations for this bill.

To the extent that the adopted caseload standards and/or actual changes to OPD workload under the bill indicate a lower need for resources, expenditures are less. Therefore, general fund expenditures for OPD increase by *as much as* \$342,117 in fiscal 2025, which accounts for the bill’s October 1, 2024 effective date. This estimate reflects the cost of hiring three attorneys and one administrative employee to address changes to OPD caseloads and workloads under the bill. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Positions	4
Salaries and Fringe Benefits	\$313,093
Operating Expenses	<u>29,024</u>
<b>Maximum OPD FY 2025 Expenditures</b>	<b>\$342,117</b>

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

**Local Effect:** While the bill may affect prosecutorial workloads, the State’s Attorneys’ Association advises that it does not anticipate a fiscal or operational impact on local State’s Attorneys’ offices from the bill.

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### Additional Information

**Recent Prior Introductions:** Similar legislation has not been introduced within the last three years.

**Designated Cross File:** None.

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

**Fiscal Note History:** First Reader - February 12, 2024  
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