

Department of Legislative Services
Maryland General Assembly
2025 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 683
Judiciary

(Delegate Grammer, *et al.*)

**Criminal Law - Criminal or Delinquent Act of a Child - Liability of a Parent,
Guardian, or Custodian**

This bill prohibits the parent, guardian, or custodian of a child from intentionally, knowingly, recklessly, or negligently acting or failing to act in a manner that results in the child committing a crime or delinquent act, as specified. The bill authorizes a court to enter a judgment or restitution against a child’s guardian or custodian and repeals a provision allowing both a parent and a child to be ordered to pay restitution. The bill specifies if a child is the defendant or child respondent and the court orders payment of restitution, the court must (1) order the child’s parent, guardian, or custodian to pay the restitution or (2) if the restitution is owed to the child’s parent, guardian, or custodian, order the child to pay the restitution. Finally, the bill creates an exception to § 3-8A-29 of the Courts and Judicial Proceedings Article, as discussed below.

Fiscal Summary

State Effect: Potential significant increase in general fund expenditures for the Office of the Public Defender (OPD) and other specified State agencies, as discussed below. The bill is not expected to materially affect expenditures for the Department of Public Safety and Correctional Services for incarcerations in Baltimore City. Potential minimal increase in general fund revenues from fines imposed in the District Court.

Local Effect: The bill may affect expenditures of the Montgomery County Department of Human Services, as discussed below. Potential minimal increase in local incarceration expenditures. Revenues are not affected.

Small Business Effect: None.

Analysis

Bill Summary/Current Law:

Parental Liability

Under the bill, a parent, guardian, or custodian of a child may not intentionally, knowingly, recklessly, or negligently act or fail to act in a manner that results in the child committing a crime or delinquent act. Violators are guilty of a misdemeanor and on conviction (1) are subject to imprisonment for up to 30 days and/or a fine of up to \$2,500; (2) must participate in all court proceedings related to the child's delinquent or criminal act and all treatment, counseling, or diversion programs the court orders the child to participate in; and (3) must pay any court costs related to the child's delinquent or criminal act. Willful failure of an individual to participate in all court proceedings related to the child's delinquent or criminal act and all treatment, counseling, or diversion programs ordered by the court is contempt of court.

Restitution

Under current law, a court may enter a judgment of restitution that orders a defendant or child respondent to make restitution in addition to any other penalty for the commission of a crime or a delinquent act if:

- as a direct result of the crime or delinquent act, property of the victim was stolen, damaged, destroyed, converted, or unlawfully obtained, or its value substantially decreased;
- as a direct result of the crime or delinquent act, the victim suffered (1) actual medical, dental, hospital, counseling, funeral, or burial expenses or losses; (2) direct out-of-pocket loss; (3) loss of earnings; or (4) expenses incurred with rehabilitation; the victim incurred medical expenses that were paid by the Maryland Department of Health (MDH) or any other governmental unit;
- a governmental unit incurred expenses in removing, towing, transporting, preserving, storing, selling, or destroying an abandoned vehicle as specified;
- the Criminal Injuries Compensation Board paid benefits to a victim; or
- MDH or another governmental unit paid expenses incurred for HIV or Hepatitis C testing, as specified.

A judgment of restitution does not preclude the property owner or the victim who suffered personal physical or mental injury, out-of-pocket loss of earnings, or support from bringing a civil action to recover damages from the restitution obligor. A civil verdict must be reduced by the amount paid under the criminal judgment of restitution. In making a

disposition on a finding that a child at least 13 years old has committed an act of graffiti under § 6-301(d) of the Criminal Law Article (malicious destruction of property), the court must order the child to perform community service or pay restitution or both.

If a child is the defendant or child respondent, the court may order the child, the child's parent, or both to pay restitution. A judgment of restitution for \$10,000 is the absolute limit for each child's acts arising out of a single incident. A court may not enter a judgment of restitution against a parent unless the parent has been afforded a reasonable opportunity to be heard and to present evidence. A restitution hearing may be held as part of the sentencing or disposition hearing.

A court need not issue a judgment of restitution if the court finds (1) that the restitution obligor does not have the ability to pay the judgment of restitution or (2) that there are extenuating circumstances that make a judgment of restitution inappropriate. A court that refuses to order restitution that is requested must state on the record the reasons for the refusal.

A judgment of restitution is a money judgment in favor of the person, governmental unit, or third-party payor to whom the restitution obligor has been ordered to pay restitution. The judgment of restitution may be enforced by the person, governmental unit, or third-party payor to whom the restitution obligor has been ordered to pay restitution in the same manner as a money judgment in a civil action. Generally, a person or entity to whom a restitution obligor has been ordered to pay restitution has all the rights and obligations of a money judgment creditor under the Maryland Rules, including the obligation on receiving all amounts due under the judgment to file a statement that the judgment has been satisfied.

§ 3-8A-29 of the Courts and Judicial Proceedings Article – Court Ordered Payment in Juvenile Causes

Under current law, a court may not order a parent, guardian, custodian, or child to pay a fine, fee, or cost or a sum of money to cover the support of a child in juvenile causes under Title 3, Subtitle 8A of the Courts and Judicial Proceedings Article (Juvenile Causes – Children other than Children In Need of Assistance and Adults).

The bill provides an exception for matters described in § 3-610 in the Criminal Law Article.

State Expenditures: Depending on charging and enforcement of the bill's provisions, which cannot be reliably determined at this time, general fund expenditures may increase significantly, as discussed below.

Office of the Public Defender

The bill's misdemeanor offense may result in OPD having to provide legal representation to parents, guardians, and custodians in applicable cases. OPD advises that the bill may also increase child in need of assistance (CINA) proceedings, as a parent accused of failing to prevent a child from committing a misdemeanor or delinquent act may be accused of neglect.

In 2024, OPD provided representation in 3,736 newly opened juvenile proceedings. This does not include children charged as adults whose cases remained in criminal court. Because legal ethics prevent OPD from representing both the parent/guardian and child, OPD must appoint a panel attorney for each of the proceedings involving the new misdemeanor. OPD advises that based on the national case time standard for lower misdemeanor cases and the \$60 hourly rate for panel attorneys, each additional misdemeanor case against a parent/guardian results in \$828 in panel attorney costs. As noted above, actual cases under the bill cannot be reliably predicted at this time. However, *for illustrative purposes only*, if 1,000 (approximately 27%) of OPD's juvenile proceedings resulted in a misdemeanor case against a parent/guardian, general fund expenditures for panel attorneys increase by \$828,000. As noted above, additional panel attorney costs are incurred if CINA proceedings result from these misdemeanor charges. OPD advises that the average CINA proceeding requires 115.62 hours of attorney time, resulting in \$6,937 per panel attorney CINA case.

Additional State Expenditures

The Department of Human Services (DHS) advises that it is likely responsible for paying restitution in applicable cases under the bill but cannot determine the magnitude of any associated fiscal impact. According to DHS, children in out-of-home placements are in the care and custody of the local department of social services (LDSS), which are mostly under DHS. When a juvenile court finds that a child is in need of assistance, the child is committed to the custody of the LDSS. Upon granting a petition of termination of parental rights, the LDSS typically receives guardianship of the child. Outside of these instances, providers are usually called "placements," not custodians or guardians.

DHS tracks alleged crimes committed by a child in their care and custody through Critical Incident Reports. This tracking is reserved only for the most serious cases. DHS advises that it does not have any way to reliably predict when a court would deem DHS liable for "intentionally, knowingly, recklessly, or negligently acting or failing to act in a manner that results in a child committing a delinquent act," as specified under the misdemeanor offense established under the bill. The Department of Legislative Services (DLS) advises that it is unclear to what extent an agency, or an employee of an agency, can

be charged under the bill's misdemeanor offense and how legal representation and associated penalties function in such a situation.

DLS notes that, while the Department of Juvenile Services (DJS) did not respond to requests for information, similar impacts may apply to children in DJS custody. According to the *DJS Data Resource Guide – Fiscal Year 2024*, there were 943 children in alternative to detention programs.

Local Expenditures: In Montgomery County, the duties of LDSS are generally administered by the county. To the extent the department experiences impacts similar to the ones discussed above for DHS, Montgomery County expenditures increase.

Additional Comments: The bill's exception under § 3-8A-29 of the Courts and Judicial Proceedings Article refers to § 3-610 of the Criminal Law Article. Because the referenced section does not exist, for purposes of this note, it is assumed the exception applies to § 1-403 of the Criminal Law Article, as established by the bill, which describes the misdemeanor offense of parental liability discussed above.

Additional Information

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

Designated Cross File: None.

Information Source(s): Baltimore, Cecil, Frederick, and Montgomery counties; Maryland Association of Counties; Maryland State Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Office of the Public Defender; Department of Public Safety and Correctional Services; Department of Legislative Services

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