

Department of Legislative Services
Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE

House Bill 572
Judiciary

(Delegate Howard, *et al.*)

Crimes - Requirement to Report Death or Disappearance of Minor - Penalties
(Caylee's Law)

This bill creates several reporting requirements regarding the disappearance or death of a minor and imposes criminal penalties for failure to report the disappearance or death of a minor.

Fiscal Summary

State Effect: Minimal increase in general fund expenditures due to the bill's incarceration penalty provisions. Revenues are not affected.

Local Effect: Minimal increase in local revenues due to the bill's monetary penalties. Minimal decrease in local expenditures due to the bill's incarceration penalties if the bill shifts individuals from local to State facilities.

Small Business Effect: None.

Analysis

Bill Summary: Under the bill, a parent or any other person who has permanent care or custody or responsibility for the supervision of a minor who is younger than age nine is required to notify the appropriate law enforcement agency that the minor is missing within three hours of becoming aware that the minor is missing. Violators are guilty of a felony and subject to imprisonment for up to 10 years and/or a maximum fine of \$10,000.

A parent or any other person who has permanent care or custody or responsibility for the supervision of a minor who is age nine or older must notify the appropriate law enforcement agency that the minor is missing within 12 hours of becoming aware that the

minor is missing. Violators are guilty of a felony and are subject to imprisonment for up to five years and/or a maximum fine of \$5,000.

A parent or any other person who has permanent care or custody or responsibility for the supervision of a minor must report the death of a minor to the appropriate law enforcement agency or medical authority within one hour of becoming aware of the death. Violators are guilty of a felony and subject to imprisonment for up to 10 years and/or a maximum fine of \$10,000.

Current Law: Pursuant to Chapter 366 of 2013, a parent or other person who has permanent care or custody or responsibility for the supervision of a minor who is younger than age 13 may not recklessly or willfully fail to notify the appropriate law enforcement agency that the minor is a “missing child” within 24 hours of the time at which the parent or other person knew or should have known that the minor is a missing child, unless the disappearance of the minor has already been reported to the appropriate law enforcement agency. “Missing child” is defined as a minor whose whereabouts are unknown to a parent or other person who has permanent care and custody or responsibility for the supervision of the minor. Violators are guilty of a misdemeanor and subject to imprisonment for up to three years.

A parent or other person who has permanent care or custody or responsibility for the supervision of a minor must report the death of a minor to the appropriate law enforcement agency or medical authority within five hours of becoming aware of the death unless the death has already been reported to the appropriate law enforcement agency or medical authority. Violators are guilty of a misdemeanor and subject to imprisonment for up to three years.

Background: In 2008, Casey Anthony was charged in Florida with the murder of her two-year-old daughter, Caylee, after she waited a month to tell police that the girl was missing and lied to investigators about Caylee’s whereabouts. By the time Caylee’s remains were found, her body was so decomposed that a cause of death could not be determined. During the closely watched trial, which lasted six weeks from May to July 2011, the prosecution argued that Casey murdered her daughter because she wanted her freedom and presented evidence suggesting that Casey had been unbothered by the disappearance of the girl. The lack of physical evidence, however, hindered the prosecution’s case. On July 5, 2011, the jury found Casey Anthony not guilty of murder, aggravated child abuse, and aggravated manslaughter of a child, but guilty of four misdemeanor counts of providing false information to a law enforcement officer.

The acquittal of Casey Anthony on the murder, manslaughter, and child abuse charges led to a public outcry over the perceived miscarriage of justice in the case. Fueled by the extensive media coverage of the high-profile trial, and legal commentators who suggested

that the verdict was incorrect, an online petition calling for federal and state laws to respond to the outcome of the trial gained momentum within hours after the verdict was read. Dubbed “Caylee’s Law,” the legislation proposed in the petition makes it a felony for a parent to fail to report the death of a child within an hour, or fail to report that a child has gone missing within a day.

Legislation in Other States

On January 9, 2012, New Jersey became the first state to enact Caylee’s Law. Under the law, a person with legal custody of a child 13 years of age or younger who fails to report the disappearance of the child to police more than 24 hours after becoming aware of the disappearance is guilty of a fourth degree crime, punishable by up to 18 months imprisonment and a fine of up to \$10,000. The law went into effect immediately.

According to the National Conference of State Legislatures, as of September 19, 2012, 11 states have enacted legislation criminalizing the failure to report a missing or deceased child. Key variations among the bills include the qualifying age of the missing or deceased child, the length of time in which the child’s guardian must report the incident, and the classification of the crime.

State Expenditures: Assuming that the bill’s provisions and the provisions of Chapter 366 of 2013 can coexist in statute and apply to overlapping cases, general fund expenditures increase minimally as a result of the bill’s incarceration penalties due to more people being committed to State correctional facilities and lengthier incarcerations. The number of people convicted of this proposed crime is expected to be minimal. This estimate assumes that law enforcement and prosecutors do not pursue charges when family misunderstandings result in failure to meet the bill’s deadlines.

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 \$3,100 per month. This bill alone, however, should not create the need for additional beds, personnel, or facilities. Excluding overhead, the average cost of housing a new State inmate (including variable health care costs) is about \$735 per month. Excluding all health care, the average variable costs total \$185 per month.

The bill’s shifting of some cases from the District Court to the circuit courts is not expected to materially affect State expenditures.

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

Local Expenditures: Expenditures decrease minimally if the net result of the bill is the shifting of individuals from local detention facilities to State correctional facilities. Counties pay the full cost of incarceration for people in their facilities for the first 12 months of the sentence. A \$45 per diem State grant is provided to each county for each day between 12 and 18 months that a sentenced inmate is confined in a local detention center. Counties also receive an additional \$45 per day grant for inmates who have been sentenced to the custody of the State but are confined in a local facility. Per diem operating costs of local detention facilities have ranged from approximately \$60 to \$160 per inmate in recent years.

The bill's shifting of cases from the District Court to the circuit courts is not expected to materially affect local expenditures.

Additional Information

Prior Introductions: HB 539 of 2013 and HB 18 of 2012, both similar bills, received unfavorable reports from the House Judiciary Committee.

Cross File: None.

Information Source(s): Carroll, Harford, Montgomery, Queen Anne's, and St. Mary's counties; Maryland State Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Department of State Police; Office of the Public Defender; Department of Public Safety and Correctional Services; State's Attorneys' Association; Department of Legislative Services

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