

Department of Legislative Services
Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE

House Bill 407
Judiciary

(Delegate Dumais, *et al.*)

Juvenile Law - Prohibition Against Continued Detention

This bill establishes that detention may not be continued beyond emergency detention for a child younger than age 12 unless the child is alleged to have committed (1) murder or attempted murder in the first degree; (2) rape in the first degree; or (3) sexual offense in the first degree.

Fiscal Summary

State Effect: The bill does not materially affect the operations or finances of the Department of Juvenile Services (DJS), as discussed below.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: Detention refers to the temporary care of children who, pending court disposition, require secure custody for the protection of themselves or the community, in physically restricting facilities. Detention can only be authorized by the court or an intake officer. A child may be placed in detention prior to a hearing if such action is required to protect the child or others or the child is likely to leave the jurisdiction of the court.

The intake officer or the official who authorized detention must immediately file a petition to authorize continued detention. A hearing on the petition must be held by the next court day, unless extended for up to five days by the court upon good cause shown.

Reasonable notice, oral or written, must be given to the child and, if they can be found, the child's parents, guardian, or custodian. An adjudicatory or waiver hearing must be held within 30 days after the date a petition for detention is granted. If a child is detained after an adjudicatory hearing, a disposition hearing must be held no later than 14 days after the adjudicatory hearing. Detention may be extended in increments of not more than 14 days where the petition charges the child with a delinquent act and where the court finds, after a subsequent hearing, that extended detention or community detention is necessary either for the protection of the child or the community.

Detention may not be continued beyond emergency detention or community detention unless, upon an order of court after a hearing, the court has found that such action is required to protect the child or others or the child is likely to leave the jurisdiction of the court. Such an order must contain a written determination of whether or not specified criteria have been met and specify which of the prerequisites noted above exist. If the court has not specifically prohibited community detention, DJS may release the child from detention into community detention and place the child in shelter care or the custody of the child's parent, guardian, custodian, or other person able to provide supervision and care for the child and to return the child to court when required. If a child who has been released by DJS or the court into community detention violates the conditions of community detention and it is necessary to protect the child or others, an intake officer may authorize the detention of the child. DJS must promptly notify the court of a child's release from or return to detention.

"Community detention" is a program monitored by DJS in which a delinquent child or a child alleged to be delinquent is placed in the home of a parent, guardian, custodian, or other fit person, or in shelter care, as a condition of probation or as an alternative to detention. Community detention includes electronic monitoring.

Background: In fiscal 2013, 36 youth ages 11 and younger were admitted to detention. In fiscal 2012 there were 21 admissions; in fiscal 2011 there were 16 admissions.

State Fiscal Effect: DJS advises that any potential reduction in per diem detention costs will be partially offset by the need to provide alternatives to detention placements, such as shelter care and electronic monitoring. Because youth younger than age 12 represent such a small portion of the youth detained annually, the bill is not anticipated to materially affect the operations or finances of DJS.

Additional Information

Prior Introductions: HB 711 of 2013, a similar bill, received a hearing in the House Judiciary Committee, but no further action was taken. Its cross file, SB 732, received a hearing in the Senate Judicial Proceedings Committee, but no further action was taken. HB 978 of 2012, a similar bill, received an unfavorable report from the House Judiciary Committee.

Cross File: Although designated as a cross file, SB 485 (Senator Forehand, *et al.* - Judicial Proceedings), is different.

Information Source(s): Judiciary (Administrative Office of the Courts), Department of Juvenile Services, Department of Legislative Services

Fiscal Note History: First Reader - February 4, 2014
ncs/kdm

Analysis by: Jennifer K. Botts

Direct Inquiries to:
(410) 946-5510
(301) 970-5510