

Department of Legislative Services
Maryland General Assembly
2016 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 94
Judiciary

(Delegate B. Wilson)

Criminal Law - Child Abuse Resulting in Death - Life Imprisonment

This bill increases the maximum penalties for first-degree child abuse resulting in death of the victim and a subsequent conviction for child abuse resulting in death of the victim from 40 years imprisonment to imprisonment for life.

Fiscal Summary

State Effect: Minimal. It is assumed that any increased incarceration costs for the Department of Public Safety and Correctional Services (DPSCS) stemming from the bill are not significant. Revenues are not affected.

Local Effect: The bill does not materially affect circuit court expenditures. Revenues are not affected.

Small Business Effect: None.

Analysis

Current Law: A parent, family member, household member, or other person who has permanent or temporary care, custody, or responsibility for the supervision of a minor may not cause abuse resulting in severe physical injury or death to the minor. A violator is guilty of the felony of child abuse in the first degree and on conviction is subject to imprisonment for up to 25 years or, if the violation results in the death of the victim, imprisonment for up to 40 years. A person who violates the child abuse laws after being convicted of a prior violation of the same provisions is guilty of a felony and is subject to imprisonment for up to 25 years. If the violation results in the death of the victim, the violator is subject to imprisonment for up to 40 years.

Child abuse which does not result in serious physical injury to or the death of the victim is child abuse in the second degree and is subject to a maximum term of imprisonment of 15 years.

A sentence may be separate from and consecutive to or concurrent with a sentence for any crime based on the act that establishes the violation.

Background: The Maryland State Commission on Criminal Sentencing Policy advises that it received sentencing information for eight people sentenced for child abuse resulting in death in the State's circuit courts during fiscal 2015. Each person was sentenced for one count of child abuse resulting in death.

The sentences imposed for these eight counts ranged from 20 to 40 years, with an average sentence of 33.8 years, including suspended time. Excluding suspended time, the average sentence imposed for the eight counts was 20.5 years and ranged from no incarceration to 40 years.

According to information provided by DPSCS, during fiscal 2015, the department conducted intake on 48 individuals for whom child abuse was their most serious offense. The data did not distinguish between the degrees of child abuse involved or whether the offense involved the death of the victim.

State Expenditures: General fund expenditures increase minimally as a result of the bill's changes to incarceration penalties for the affected offenses due to people potentially being committed to State correctional facilities for longer periods of time. The magnitude of the bill's impact depends on the additional amount of incarceration time incurred by individuals sentenced pursuant to the bill.

DPSCS advises that while a sentence of "life" technically includes the possibility of parole, life sentences very rarely result in the inmate being paroled.

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 \$3,300 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 \$770 per month. Excluding all health care, the average variable costs total \$200 per month.

The Office of the Public Defender (OPD) advises that the bill's enhancement of an existing penalty decreases the likelihood that cases affected by the bill will be resolved without trial litigation. As a result, the bill increases the number of hours assistant public defenders spend on trial preparation and litigation. However, OPD also notes that due to the number

of factors involved, the overall impact of the bill on OPD is speculative. The Department of Legislative Services advises that the bill is not likely to materially affect OPD finances, since the bill's alteration of existing incarceration penalties does not increase OPD's overall caseload and, given the seriousness of these crimes, cases involving these offenses are likely to involve a significant amount of attorney work hours under existing statute.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland State Commission on Criminal Sentencing Policy, Judiciary (Administrative Office of the Courts), Office of the Public Defender, State's Attorneys' Association, Department of Public Safety and Correctional Services, Department of Legislative Services

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