

**Department of Legislative Services**  
Maryland General Assembly  
2008 Session

**FISCAL AND POLICY NOTE**  
**Revised**

House Bill 410  
Judiciary

(Delegate G. Clagett, *et al.*)

Judicial Proceedings

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**Crimes - Child Endangerment**

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This bill establishes the crime of child endangerment. A parent or other person who has permanent or temporary care or custody or responsibility for the supervision of a minor may not recklessly act or fail to act in a manner that creates a substantial risk to the minor: (1) death; or (2) permanent or protracted serious (i) disfigurement; (ii) loss of the function of any bodily member or organ; or (iii) impairment of the function of any bodily member or organ.

A violator is guilty of the misdemeanor of child endangerment and on conviction is subject to imprisonment not exceeding one year and/or a fine not exceeding \$1,000.

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**Fiscal Summary**

**State Effect:** Potential minimal increase in general fund revenues and expenditures due to the bill's penalty provisions.

**Local Effect:** Potential minimal increase in expenditures due to the bill's penalty provisions.

**Small Business Effect:** None.

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## Analysis

**Current Law:** State law does not establish criminal penalties for an act or failure to act that leads to child endangerment.

A parent or other person who has permanent or temporary care or custody or responsibility for the supervision of a minor may not cause abuse to the minor. “Abuse” means physical injury sustained by a minor as a result of cruel or inhumane treatment or as a result of a malicious act under circumstances that indicate that the minor’s health or welfare is harmed or threatened by the treatment or act. A violator is guilty of the felony of child abuse in the second degree and on conviction is subject to imprisonment not exceeding 15 years. If the abuse results in the death of the minor or causes serious physical injury, a violator is guilty of the felony of child abuse in the first degree and on conviction is subject to imprisonment not exceeding 25 years or, if the violation results in the death of the victim, imprisonment not exceeding 30 years.

A person may not recklessly engage in conduct that creates a substantial risk of death or serious physical injury to another. “Serious physical injury” means physical injury that: (1) creates a substantial risk of death; or (2) causes permanent or protracted serious (i) disfigurement; (ii) loss of the function of any bodily member or organ; or (iii) impairment of the function of any bodily member or organ. A violator is guilty of the misdemeanor of reckless endangerment and on conviction is subject to imprisonment not exceeding five years and/or a fine not exceeding \$5,000.

It is a crime for a person who is charged with the care of a child younger than age 8 years to allow the child to be locked or confined in a building or motor vehicle while the person charged is absent and the building or motor vehicle is out of the sight of the person charged unless the person charged provides a reliable person at least age 13 to remain with the child to protect the child. This crime is a misdemeanor and a violator is subject to fine not exceeding \$500 and/or imprisonment not exceeding 30 days.

A person is required to report suspected child neglect and the State is required to intervene to protect the child. Professional human services workers, as defined by statute, must adhere to specific oral and written report requirements.

Section 5-701 of the Family Law Article defines neglect as leaving a child unattended or other failure to give proper care and attention to a child by any parent or other person who has permanent or temporary care or custody or responsibility for supervising a child under circumstances that indicate the child’s health or welfare is harmed or placed at substantial risk of harm or mental injury to the child or a substantial risk of mental injury.

Promptly after receiving a report of child neglect for a child who lives in Maryland and that is alleged to have occurred in the State, the local department of social services (LDSS) must thoroughly investigate the report. The investigation must include: (1) a determination of the nature, extent, and cause of the neglect, if any; (2) if mental injury is suspected, an assessment by two of the following: a licensed physician, a licensed psychologist, or a licensed social worker; and (3) if neglect is verified, a determination of the identity of the person or persons responsible for the neglect, a determination of the name, age, and condition of any other child in the household, an evaluation of the parents and the home environment, a determination of any other pertinent facts or matters, and a determination of any needed services.

If a local department finds that neglect has occurred, the State is required to intervene to provide services to the family to prevent continued neglect. If child neglect continues, the State may petition to have the child declared a Child in Need of Assistance (CINA) where the local department becomes guardian of the child until the child can be safely reunited with his/her family or placed in foster care. Continued instances of neglect by a parent could subject a parent to termination of parental rights. A person who is found to neglect children in his/her care or custody could be listed on the State Central Registry of Reported Child Abuse and Neglect Cases.

The Department of Human Resources' Social Service Administration and each LDSS may maintain a central registry of reported child abuse and neglect cases.

**Background:** The latest statistical information made available on an annual basis by DHR covers fiscal 2005, when 14,413 child neglect investigations occurred statewide. Of these investigations, 3,625 were closed with indications of neglect, and 3,526 were closed as unsubstantiated with regard to neglect. In calendar 2005, 29 deaths were reported to DHR where child abuse or neglect was determined to be a contributing factor.

**State Revenues:** General fund revenues could increase minimally as a result of the bill's monetary penalty provision from cases heard in the District Court.

**State Expenditures:** General fund expenditures could increase minimally as a result of the bill's incarceration penalties due to more people being committed to Division of Correction (DOC) facilities and increased payments to counties for reimbursement of inmate costs. The number of people convicted of this proposed crime is expected to be minimal.

Persons serving a sentence of one year or less in a jurisdiction other than Baltimore City are sentenced to local detention facilities. For persons sentenced to a term of between 12 and 18 months, the sentencing judge has the discretion to order that the sentence be

served at a local facility or DOC. The State reimburses counties for part of their incarceration costs, on a per diem basis, after a person has served 90 days. State per diem reimbursements for fiscal 2009 are estimated to range from \$19 to \$71 per inmate depending upon the jurisdiction. Persons sentenced to such a term in Baltimore City are generally incarcerated in DOC facilities. The Baltimore City Detention Center, a State-operated facility, is used primarily for pretrial detentions.

**Local Expenditures:** Expenditures could increase minimally as a result of the bill's incarceration penalty. Counties pay the full cost of incarceration for people in their facilities for the first 90 days of the sentence, plus part of the per diem cost after 90 days. Per diem operating costs of local detention facilities are expected to range from \$40 to \$129 per inmate in fiscal 2009.

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### **Additional Information**

**Prior Introductions:** The bill is similar to HB 1399 of 2006, which was heard by the House Judiciary Committee but received no further action.

**Cross File:** None.

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

**Fiscal Note History:** First Reader - January 29, 2008  
ncs/jr Revised - House Third Reader - March 21, 2008

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