

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE

House Bill 748
Judiciary

(Delegate Vallario, *et al.*)

Criminal Law - Intimidation of Witnesses

This bill alters penalty provisions applicable to the crimes of: (1) inducing false testimony or avoidance of a subpoena; (2) retaliation for testimony; and (3) intimidating or corrupting a juror.

Fiscal Summary

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

Local Effect: None. Additional felony cases for the circuit courts could be handled with existing budgeted resources.

Small Business Effect: None.

Analysis

Bill Summary: The bill alters penalties for these crimes by providing that a violator is guilty of a felony and subject to a maximum term of imprisonment for 20 years if the violation is committed in connection with a case in which the defendant is charged with: (1) a crime of violence; (2) a second or subsequent violation of specified controlled dangerous substances offenses; or (3) operating as a volume dealer of certain controlled dangerous substances or a drug kingpin.

The specified controlled dangerous substances offenses are prohibitions against: (1) manufacturing, distributing, possessing with intent to distribute, or dispensing controlled

dangerous substances; (2) manufacturing, distributing, or possessing equipment to produce controlled dangerous substances; (3) creating or distributing a counterfeit controlled dangerous substance or possessing a counterfeit substance with intent to distribute; (4) keeping a “common nuisance;” or (5) passing, issuing, making, or possessing a false, counterfeit, or altered prescription for a controlled dangerous substance with the intent to distribute.

Current Law: The crimes of inducing false testimony or avoidance of a subpoena, retaliation for testimony, and intimidating or corrupting a juror are misdemeanors which subject a violator to a maximum imprisonment of five years. In addition, a person convicted of intimidating or corrupting a juror is also subject to a maximum fine of \$10,000 and/or the imprisonment term.

For purposes of this bill, a “crime of violence” means:

- abduction;
- arson in the first degree;
- kidnapping;
- manslaughter, except involuntary manslaughter;
- mayhem;
- maiming;
- murder;
- rape;
- robbery;
- carjacking;
- armed carjacking;
- sexual offense in the first degree;
- sexual offense in the second degree;
- use of a handgun in the commission of a felony or other crime of violence;
- an attempt to commit any of the above crimes;
- assault in the first degree;
- assault with intent to murder;
- assault with intent to rape;
- assault with intent to rob;
- assault with intent to commit a first degree sexual offense; and
- assault with intent to commit a second degree sexual offense.

Background: Witness intimidation continues to be an impediment to the effective prosecution of violent crimes, especially in jurisdictions where witnesses are reluctant to testify for fear of their lives.

Intimidation by drug dealers has been a top concern in Baltimore City, where a husband and wife and five children were killed in 2002 after their home was firebombed in retaliation for calls to police against local drug dealers. In January 2005, city detectives sought federal grand jury indictments against four men accused of involvement in a retaliatory firebombing at the North Baltimore home of a woman who had reported drug activity to police. In addition, a so-called “Stop Snitching” DVD has been distributed in Baltimore.

State Expenditures: General fund expenditures could increase minimally as a result of the bill’s incarceration penalty due to people convicted of these offenses being committed to Division of Correction (DOC) facilities for longer periods of time. The number of people convicted of these crimes, as felony offenses, is expected to be minimal. Because violations of these offenses as misdemeanors under current law subject a convicted person to a maximum imprisonment of five years, any increase in incarceration costs stemming from this bill would likely not be felt until fiscal 2008.

Persons serving a sentence longer than 18 months are incarcerated in DOC facilities. Currently, the average total cost per inmate, including overhead, is estimated at \$1,850 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 DOC inmate (including medical care and variable costs) is \$310 per month. Excluding medical care, the average variable costs total \$120 per month.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts), Department of Public Safety and Correctional Services (Division of Correction), Department of Legislative Services

Fiscal Note History: First Reader - February 10, 2005
ncs/jr

Analysis by: Guy G. Cherry

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