Department of Legislative Services
Maryland General Assembly
2018 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 761 (Delegate Impallaria, *et al.*)

Judiciary

Courts - Aggravated Murder Court

This proposed constitutional amendment authorizes the General Assembly to create by law an Aggravated Murder Court, which is a trial court with original and exclusive uniform statewide jurisdiction over offenses that were formerly punishable by death. The Attorney General is required to prosecute all cases in the Aggravated Murder Court. Judges on the Aggravated Murder Court are exempt from provisions that establish an election process for circuit court judges.

Fiscal Summary

State Effect: Adoption of the constitutional amendment does not directly affect State finances, as discussed below.

Local Effect: Adoption of the constitutional amendment does not directly affect local finances, as discussed below.

Small Business Effect: None.

Analysis

Current Law: Murder cases are tried in circuit courts with State's Attorneys serving as prosecutors. Persons charged with first-degree murder, if found guilty, are sentenced to imprisonment for life or imprisonment for life without the possibility of parole. Prior to 2013, persons charged with first-degree murder were also subject to the death penalty in specified circumstances. Chapter 156 of 2013 repealed the death penalty and all related provisions.

The Maryland Constitution requires the Attorney General to prosecute and defend all cases by or against the State pending in the State's appellate courts, in the U.S. Supreme Court, or the federal courts. This requirement also applies to cases that are not by or against the State but are ones in which the State may be interested, except for criminal appeals otherwise prescribed by the General Assembly. The Maryland Constitution also requires the Attorney General to aid State's Attorneys in certain instances, or investigate, commence, prosecute, or defend certain legal actions at the direction of the General Assembly or the Governor.

Circuit court judges are nominated by principal political parties or during a primary election and are elected to office in a general election. Candidates may appear by petition on the general election ballot. Article IV of the Maryland Constitution specifies that vacancies in the office of a circuit court judge be filled by gubernatorial appointment until the election and qualification of a successor at the first general election one year after the occurrence of the vacancy.

State/Local Fiscal Effect: This proposed constitutional amendment only *authorizes* the creation of an Aggravated Murder Court; the General Assembly must pass additional legislation to actually create the court. Any fiscal impact on State or local governments to create and operate such a court depends on any legislation subsequently introduced but is potentially significant.

Additional Information

Prior Introductions: HB 434 of 2015 received an unfavorable report from the House Judiciary Committee. HB 651 of 2014 received an unfavorable report from the House Judiciary Committee.

Cross File: None.

Information Source(s): Maryland State Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Office of the Public Defender; Maryland State's Attorneys' Association; Maryland State Board of Elections; Department of Legislative Services

Fiscal Note History: First Reader - February 16, 2018
mm/kdm

Analysis by: Jennifer K. Botts

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