

Department of Legislative Services
Maryland General Assembly
2019 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 493
Judiciary

(Delegate Valentino-Smith, *et al.*)

Judicial Proceedings

Crimes – Solicitation and Conspiracy to Commit Murder Resulting in Death
(Stacey’s Law)

This bill establishes that a person who solicits another or conspires with another to commit murder in the first degree is guilty of murder in the first degree if the death of another person occurs as a result of the solicitation or conspiracy.

Fiscal Summary

State Effect: Minimal increase in general fund expenditures beginning in FY 2023 if the bill’s extension of the statute of limitations for solicitation to commit murder in the first degree where the death of another person occurs increases the number of incarcerations in State facilities. Revenues are not affected.

Local Effect: The bill is not expected to materially affect local finances.

Small Business Effect: None.

Analysis

Current Law: A murder is in the first degree if it is (1) a deliberate, premeditated, and willful killing; (2) committed by lying in wait; (3) committed by poison; or (4) committed in the perpetration of or an attempt to perpetrate specified crimes. A person who commits a murder in the first degree is guilty of a felony and on conviction must be sentenced to imprisonment for life, with or without the possibility of parole. A sentence of imprisonment for life without the possibility of parole may not be imposed unless specified statutory and procedural requirements are met.

Under the common law, solicitation involves urging, advising, or otherwise inciting another person to commit a crime. Solicitation, like an attempt to commit a crime or a conspiracy to commit a crime, is referred to as an “inchoate” crime. Inchoate crimes reflect steps taken toward the commission of another crime (the substantive crime) that are serious enough that they are considered criminal behavior worthy of punishment.

Inchoate crimes are generally common law crimes. However, some inchoate crimes (*e.g.*, attempted murder, rape, and robbery) have been made statutory felonies. According to the Maryland Sentencing Guidelines Offense Table, the maximum penalty for conspiracy to commit first-degree murder and solicitation to commit first-degree murder is imprisonment for life.

Under the common law, solicitation is a misdemeanor regardless of whether the substantive crime that is the basis of the solicitation is a misdemeanor or felony. In general, prosecution for a misdemeanor must be instituted within one year after the offense was committed. Chapters 647 and 648 of 2017 increased the statutes of limitations for the prosecution of the crimes of solicitation to commit the following offenses from one year to three years: murder in the first degree; murder in the second degree; arson in the first degree; and arson in the second degree. In general, the statute of limitations for the prosecution of the crime of conspiracy is the statute of limitations for the prosecution of the substantive crime that is the subject of the conspiracy. There is no statute of limitations for most felonies.

Background: According to the Maryland Sentencing Guidelines Database, the Maryland State Commission on Criminal Sentencing Policy (MSCCSP) received sentencing information on 20 individuals sentenced for conspiracy to commit murder in the first degree, under common law, in the State’s circuit courts during fiscal 2018. MSCCSP did not receive sentencing information for anyone sentenced in the State’s circuit courts during fiscal 2018 for solicitation to commit murder in the first degree.

State Expenditures: General fund expenditures increase minimally, beginning in fiscal 2023, if the bill’s alteration of the statute of limitations for a prosecution of a person for solicitation to commit murder in the first degree where the death of another person occurs increases the number of incarcerations for this offense.

As previously stated, the penalty for murder in the first degree is imprisonment for life, with or without the possibility of parole; the maximum penalty for conspiracy to commit murder in the first degree and solicitation to commit murder in the first degree is imprisonment for life. The statute of limitations for conspiracy to commit murder in the first degree is the statute of limitations for first-degree murder.

However, the statute of limitations for solicitation to commit murder in the first degree is three years. Under the bill, there would be no statute of limitations for solicitation to

commit murder in the first degree if the death of another occurs as a result of the solicitation, since the act would be considered first-degree murder, which is not subject to a statute of limitations. Thus, the bill's fiscal impact is mainly due to the elimination of the statute of limitations for solicitation to commit murder in the first degree if the death of another occurs as a result of the solicitation. Since the statute of limitations under existing statute is three years, the bill's fiscal impact is not felt until fiscal 2023.

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 \$3,800 per month. 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 a State correctional facility. The State provides assistance to the counties for locally sentenced inmates and for (1) inmates who are sentenced to and awaiting transfer to the State correctional system; (2) sentenced inmates confined in a local detention center between 12 and 18 months; and (3) inmates who have been sentenced to the custody of the State but are confined in or who receive reentry or other prerelease programming and services from a local facility.

The State does not pay for pretrial detention time in a local correctional facility. Persons sentenced in Baltimore City are generally incarcerated in State correctional facilities. The Baltimore Pretrial Complex, a State-operated facility, is used primarily for pretrial detentions.

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; Maryland State's Attorneys' Association; Department of Public Safety and Correctional Services; Worcester County; *Black's Law Dictionary*; Department of Legislative Services

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