

**Department of Legislative Services**  
Maryland General Assembly  
2024 Session

**FISCAL AND POLICY NOTE**  
**Third Reader - Revised**

House Bill 1063  
Judiciary

(Delegate Williams, *et al.*)

Judicial Proceedings

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**Criminal Organizations - Underlying Crime**

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This bill expands the meaning of “underlying crime” for the purposes of establishing a “pattern of organized criminal activity” applicable to related criminal prohibitions.

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**Fiscal Summary**

**State Effect:** Potential minimal increase in general fund expenditures due to the bill’s expanded application of existing criminal penalty provisions. Revenues are not affected.

**Local Effect:** Potential minimal increase in local revenues from fines imposed in the circuit courts under the bill’s expanded application of existing penalty provisions. Expenditures are not materially affected.

**Small Business Effect:** None.

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**Analysis**

**Bill Summary:** The bill expands what “underlying crime” means (for the purposes of establishing a “pattern of organized crime activity”) to include:

- use of a firearm in the commission of a crime under § 4-204 of the Criminal Law Article;
- contraband – in general under § 9-412 of the Criminal Law Article;
- a felony violation of Title 8 of the Criminal Law Article (fraud and related crimes);
- bribery under Title 9, Subtitle 2 of the Criminal Law Article;
- false statements under Title 9, Subtitle 5 of the Criminal Law Article;

- impersonating a police officer under § 3-502 of the Public Safety Article;
- threat of mass violence under Title 3, Subtitle 10 of the Criminal Law Article;
- child pornography under § 11-207 or § 11-208 of the Criminal Law Article;
- a felony violation of Title 27, Subtitle 4 of the Insurance Article (insurance fraud);
- removal or falsification of vehicle identification number under § 14-107 of the Transportation Article; and
- abuse or neglect of a vulnerable adult under §§ 3-604 or 3-605 of the Criminal Law Article.

**Current Law:** Title 9, Subtitle 8 of the Criminal Law Article contains several prohibitions on engaging in activities as part of a criminal organization. For example, under § 9-804 of the Criminal Law Article, a person may not (1) participate in a criminal organization knowing that the members of the criminal organization engage in a pattern of organized crime activity and (2) knowingly and willfully direct or participate in an underlying crime (as defined in statute) or an act by a juvenile that would be an underlying crime if committed by an adult, committed for the benefit of, at the direction of, or in association with a criminal organization. The statute further prohibits a criminal organization or an individual belonging to a criminal organization from (1) receiving proceeds known to have been derived directly or indirectly from an underlying crime and (2) using or investing, directly or indirectly, an aggregate of \$10,000 or more of the proceeds from an underlying crime in the acquisition of real property or the establishment or operation of any enterprise. Finally, a criminal organization is prohibited from acquiring or maintaining, directly or indirectly, any interest in or control of any enterprise or real property through an underlying crime. A person may not conspire or attempt to violate these prohibitions.

In general, violators are guilty of a felony, punishable by imprisonment for up to 15 years and/or a \$1 million maximum fine. However, if the person's participation in the criminal organization or an underlying crime on behalf of the organization resulted in the death of a victim, the person is guilty of a felony, punishable by imprisonment for up to 25 years and/or a \$5 million fine. Sentences may or must be consecutive to other sentences imposed as specified. In addition, the court may order a person or criminal organization to be divested of any interest in an enterprise or real property; order the dissolution or reorganization of an enterprise; and order the suspension or revocation of any license, permit, or prior approval granted to the enterprise or person by a unit of the State or a political subdivision of the State. The statute contains additional provisions regarding divested assets connected to drug offenses and the Attorney's General's authority to prosecute a violation or act establishing a violation of the statute.

## **State Expenditures:**

### *Department of Public Safety and Correctional Services*

General fund expenditures for the Department of Public Safety and Correctional Services may increase minimally as a result of the bill's expanded application of existing incarceration penalties due to more people being committed to State correctional facilities. The number of people convicted under the bill is expected to be minimal.

Persons serving a sentence longer than 18 months are incarcerated in State correctional facilities. Currently, the average total cost per incarcerated individual, including overhead, is estimated at \$5,110 per month. Excluding overhead, the average cost of housing a new State incarcerated individual (including health care costs) is about \$1,244 per month. Excluding all health care (which is a fixed cost under the current contract), the average variable costs total \$336 per month. 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.

### *Office of the Public Defender*

The Office of the Public Defender (OPD) advises that the bill's provisions may result in costs for the agency due to additional cases and an increased level of effort in existing cases. While the impact of the bill on OPD caseloads is anticipated to be minimal, any increase in workloads for OPD resulting from the bill cannot be reliably estimated without actual experience under the bill.

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## **Additional Information**

**Recent Prior Introductions:** Similar legislation has not been introduced within the last three years.

**Designated Cross File:** SB 1111 (Senator Muse) - Judicial Proceedings.

**Information Source(s):** Baltimore, Frederick, and Montgomery counties; City of Annapolis; Office of the Attorney General; Maryland State Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Office of the Public Defender; Maryland State's Attorneys' Association; Maryland Department of Health; Maryland Department of Labor; Comptroller's Office; Department of Public Safety and Correctional Services; Department of State Police; Maryland Department of Transportation; Department of Legislative Services

**Fiscal Note History:** First Reader - March 4, 2024  
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