

Department of Fiscal Services
Maryland General Assembly

FISCAL NOTE

House Bill 35 (Delegate Krysiak)
Judiciary

Criminal Law - Plea Bargaining

This bill prohibits a State's Attorney and a defendant from agreeing to a plea bargain when the defendant is charged with a violent crime and has been previously convicted of a violent crime.

Fiscal Summary

State Effect: Potential significant increase in general fund expenditures. No effect on revenues.

Local Effect: Potential significant increase in expenditures, particularly in Anne Arundel, Baltimore, Montgomery, and Prince George's counties and Baltimore City. No effect on revenues. **This bill imposes a mandate on units of local governments.**

Fiscal Analysis

State Expenditures: In fiscal 1994 there were 1,644 cases involving repeat violent offenders that resulted in a conviction without trial activity. Approximately 90% of all felony indictments in the circuit courts are disposed of through plea negotiations. Jury trials average two to three days in length.

Based on the following assumptions, circuit court case loads could increase by more than 16.6 trial-years: (1) all of the 1,644 cases involved second or subsequent offenses covered under current law; (2) these defendants would select jury trials; (3) an average jury trial length of 2.5 days; and (4) 247 trial days per year.

Using the estimate of 16.6 additional trial-years, and assuming judges spend two-thirds of their time in trials, this bill would require an additional 25 circuit court judges and 25

courtroom clerks at a cost in fiscal 1997 of \$3.6 million, which reflects the October 1, 1996 effective date. Annual expenditures would exceed \$4.8 million.

In addition, expenditures for the Office of the Public Defender could increase by \$3.6 million in fiscal 1997 for 106 various positions and related operating expenses. Annual expenditures would exceed \$4.3 million. Since appeals are more frequent in trials than when the defendant pleads guilty, Public Defender expenditures could be higher. The Attorney General represents the state in criminal appeals. Any increase in expenditures by the Attorney General for additional criminal appeals cannot be reliably estimated at the time.

As more trials create additional backlogs in the Baltimore City Circuit Court docket, the average length of stay in the Baltimore City Detention Center could increase. The Division of Pretrial Detention and Services operates the Baltimore City Detention Center. It costs an average of \$43 per inmate day to operate the detention center. The division could also incur significant additional capital costs as the detention center is subject to a court-ordered maximum capacity and the number of pretrial defendants has been nearing that cap. To remain under the cap, sentenced inmates have been transferred to Division of Correction (DOC) institutions. Pretrial defendants cannot be transferred to DOC institutions.

It is possible that if more persons are sentenced under the mandatory minimum sentence provisions for repeat violent offenders, Division of Correction population could increase. Any such increase, however, would depend upon the difference between the mandatory minimum and the sentence that would have been imposed under a plea bargain agreement. Any such increase cannot be reliably estimated at this time.

Any such increase in costs could be mitigated to the extent that trials and convictions may be reduced because: (1) local jurisdictions are unwilling or unable to fund additional courts or prosecutors; (2) the state cannot add an adequate number of judges; (3) a plea bargain virtually always results in a conviction but a trial does not; and (4) plea bargains are often used to obtain a conviction when the prosecution's case is weak. While the reduction in trials and convictions due to these factors cannot be reliably estimated at this time, it is assumed to be significant.

Local Expenditures: Local jurisdictions are responsible for capital expenses of the circuit courts. Assuming 3,000 square feet for each judge, staff, and courtroom, and \$130 cost per square foot, local capital expenditures for an additional 25 circuit court judges would be \$9.8 million.

In addition, the local jurisdictions are responsible for most operating expenses of the circuit courts, including reporters, bailiffs, sheriffs, etc. Assuming a cost of \$190,000 in other expenses for each courtroom, local expenditures for circuit court operating expenses could be \$3.6 million in fiscal 1997 which reflects the October 1, 1996 effective date, and more than \$4.8 million annually.

The State's Attorney is responsible for prosecuting criminal cases in the circuit courts. It is assumed that the effect on the State's Attorney would be roughly equal to that on the Public Defender, or an estimated \$3.6 million in fiscal 1997 and more than \$4.3 million annually.

Total additional operating cost to local jurisdictions could be \$7.2 million in fiscal 1997, accounting for the October 1 effective date. Annual operating expenses would be in excess of \$9.1 million.

These costs would not be evenly distributed among jurisdictions. Approximately three-fourths of all these expenditures would occur in Baltimore City and Anne Arundel, Baltimore, Montgomery, and Prince George's counties.

As more trials create additional backlogs in the circuit court dockets, the average length of stay in local detention centers could increase. Local jurisdictions are responsible for the full cost of pretrial detention. These costs range from \$22 to \$108 per inmate day, depending upon the jurisdiction.

Any such increase in costs could be mitigated to the extent that trials and convictions may be reduced because: (1) local jurisdictions are unwilling or unable to fund additional courts or prosecutors; (2) the state cannot add an adequate number of judges; (3) a plea bargain virtually always results in a conviction but a trial does not; and (4) plea bargains are often used to obtain a conviction when the prosecution's case is weak. While the reduction in trials and convictions due to these factors cannot be reliably estimated at this time, it is assumed to be significant.

Information Source(s): Judiciary (Administrative Office of the Courts), Office of the Public Defender, Department of Fiscal Services

Fiscal Note History: First Reader - January 16, 1996

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