

Department of Fiscal Services
Maryland General Assembly

FISCAL NOTE

House Bill 790 (Delegate Kach)
Judiciary

Death Penalty - Aggravating Circumstances - Murderer on Parole and Repeat Murderer

This bill provides an additional aggravating circumstance that must be considered in determining a sentence of death. Specifically, the bill adds whether the defendant committed the murder while on parole in connection with a previous murder, or whether the defendant had previously been convicted of a separate offense of first degree murder.

Fiscal Summary

State Effect: General fund expenditures could be affected as discussed below. Revenues would not be affected.

Local Effect: Potential minimal expenditure increases as discussed below. Revenues would not be affected.

Small Business Effect: None. The bill would not directly affect small businesses.

Fiscal Analysis

State Effect: There are several inherent difficulties in determining the effect of adding a particular aggravating circumstance. For instance, there is the potential overlap with other aggravating circumstances. In addition, prosecutors exercise discretion and have latitude in bringing such cases. There are also contrasts and dissimilarities as to how different courts and/or juries will view the same presentation of facts with particular sets of circumstances.

Since July 1, 1978, there have been 48 persons sentenced to death in Maryland (representing the imposition of 73 death sentences). Inmates sentenced to death are housed at the

Maryland Correctional Adjustment Center (MCAC) at a cost of approximately \$3,100 per month. The average monthly cost for inmates otherwise incarcerated by the Division of Correction (DOC) is estimated at \$1,500. There are currently 17 persons under sentence of death and held at MCAC. The length of stay for inmates at MCAC is anticipated to be 6 to 11 years.

The Division of Correction reports that 82 offenders were convicted of first degree murder in fiscal 1996. Four were sentenced to death. The division does not currently know how many of the 82 offenders committed were persons who would fall under the provisions of this bill. However, to the extent that this bill actually increases the number of death penalties imposed, the State would realize an indeterminate savings in incarceration costs over time.

The extent to which this additional aggravating circumstance would increase death penalty litigation is unclear. Accordingly, while it is conceivable that this bill could increase the workload and expenditures of the judicial system, including the Office of the Public Defender, any such increase cannot be reliably projected or quantified. In any event, the cost for the Public Defender to defend any additional death penalty cases arising from this bill is estimated to be \$50,000 per case.

Local Effect: The creation of any additional aggravating circumstance could conceivably increase costs for State's Attorneys, but only to the extent that the new provision actually realizes additional death penalty activity by a particular State's Attorney. It is assumed the number of such instances would be small.

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

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Analysis by: Guy G. Cherry
Reviewed by: John Rixey

Direct Inquiries to:
John Rixey, Coordinating Analyst
(410) 841-3710
(301) 858-3710