Department of Fiscal Services
Maryland General Assembly

FISCAL NOTE
Revised

Senate Bill 227 (The President)
                         (Administration)
Judicial Proceedings   Referred to Judiciary

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Homicide - Penalties

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This amended Administration bill modifies a current law aggravating circumstance that must be considered by a court or jury in deciding whether to impose the death penalty. Specifically, in cases involving the murder of a law enforcement officer performing official duties, a principal in the second degree who exhibited a reckless disregard for human life is placed under the same jeopardy as the principal defendant.

The bill is applied prospectively only to offenses committed after October 1, 1997.

Fiscal Summary

State Effect: Potential indeterminate increase and decrease in general fund expenditures as discussed below. Revenues would not be affected.

Local Effect: Potential indeterminate expenditure increase as discussed below. Revenues would not be affected.

Small Business Effect: The Administration has determined that this bill has minimal or no impact on small businesses (attached). Fiscal Services concurs with this assessment. (The attached assessment does not reflect amendments to the bill.)

Fiscal Analysis

State Effect: There are several inherent difficulties in determining the effect of modifying 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 DOC reports that 82 offenders were convicted of first degree murder in fiscal 1996. Four were sentenced to the death penalty. The division has not reported on the number of instances of first degree murder where the victim was a law enforcement officer. It is assumed that the number of such instances is small. However, to the extent that more principals in the second degree would be sentenced to death under the provisions of this bill, 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), Department of Public Safety and Correctional Services (Division of Correction), Office of the Public Defender, Department of Fiscal Services