

Department of Legislative Services
Maryland General Assembly

FISCAL NOTE
Revised

House Bill 1067 (Chairman, Judiciary Committee. *et al.*)
(Departmental - State Police)

Judiciary

Homicide - Penalties

This departmental 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, the bill places all persons involved in the crime of murdering a law enforcement officer performing official duties under jeopardy of the death penalty. The bill specifies that a principal in the second degree would be subject to the death penalty if that person: (1) willfully, deliberately, and with premeditation intended the death of the officer; (2) was a major participant in the murder; and (3) was actually present at the time and place of the murder.

Fiscal Summary

State Effect: Potential indeterminate general fund expenditure increase. Revenues would not be affected.

Local Effect: Potential minimal expenditure increase. Revenues would not be affected.

Small Business Effect: The Department of State Police has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment. (This assessment does not reflect any amendments to the bill).

Fiscal Analysis

State Effect: There are several inherent difficulties in determining the effect of 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 74 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 14 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 106 offenders were convicted of first degree murder in fiscal 1997. One was sentenced to death. The division does not currently know how many of the 106 offenders committed were persons who would fall under the provisions of this bill. It is assumed that the number of such instances would be small. 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 Legislative Services

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