

Department of Legislative Services
Maryland General Assembly

FISCAL NOTE

Senate Bill 367 (Senator Ferguson. *et al.*)

Judicial Proceedings

Death Penalty - Minimum Age and Aggravating Circumstances

This bill lowers the minimum age for subjecting a person to the death penalty from 18 to 16. The bill also 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 in a cold-blooded and pitiless manner that exhibited utter disregard for human life.”

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: None.

Fiscal Analysis

State Effect: There are several inherent difficulties in determining the effect of either lowering the age subject to the death penalty or 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 74 death sentences). Inmates sentenced to death are housed at the Maryland Correctional Adjustment Center (MCAC) at a cost of approximately \$3,700 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 six to

eleven years.

The DOC reports that 106 offenders were convicted of first degree murder in fiscal 1997. One was sentenced to death. Their average age is 26 years. The average annual DOC intake of juveniles convicted of first degree murder is 10. 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 also not known whether there were any juvenile offenders between the ages of 16 and 18 who would have been subject to the death penalty under the provisions of this bill. It is assumed that the number of any 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. (Juveniles between 16 and 18 who commit murder are already tried and incarcerated as adults, and incarcerated at a DOC facility at an average monthly cost of \$2,100.)

In any event, it is anticipated that reducing the minimum age for the death penalty could result in an indeterminate number of additional death sentence proceedings. In addition, 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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