

Department of Legislative Services
Maryland General Assembly

FISCAL NOTE

House Bill 709 (Delegate Faulkner. *et al.*)

Judiciary

Plea Bargaining - Restrictions

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 or is charged with using a handgun in the commission of a felony or violent crime.

Fiscal Summary

State Effect: Indeterminate significant increase in general fund expenditures. Revenues would not be affected.

Local Effect: Indeterminate 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.**

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

Fiscal Analysis

State Expenditures: There are approximately 1,600 cases annually involving repeat violent offenders that result in a conviction without trial activity. The number of people charged with using a handgun in a felony or violent crime who pleaded guilty is unknown. 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 caseloads could increase by more than 16.6 trial-years: (1) all the 1,600 cases involved offenses covered under this bill; (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 1999 of \$3.6 million. Annual expenditures would exceed \$4.8 million.

In addition, expenditures for the Office of the Public Defender could increase by \$3.7 million in fiscal 1999 for 106 various positions and related operating expenses. Annual expenditures would exceed \$5 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 this 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 (BCDC) could increase. The Division of Pretrial Detention and Services operates the BCDC. It costs an average of \$43 per inmate per 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, the DOC 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 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 cannot be reliably estimated at this time, it is assumed to be significant.

Local Expenditures: Local jurisdictions are responsible for capital and most operating

expenses of the circuit courts. Assuming 3,000 square feet for each judge, staff, and courtroom, and \$125 cost per square foot, local capital expenditures for an additional 25 circuit court judges would be \$9,375,000.

In addition, the local jurisdictions are responsible for operating expenses of the circuit courts, including reporters, bailiffs, sheriffs, etc. Assuming a cost of \$185,000 in other expenses for each courtroom, local expenditures for circuit court operating expenses could be \$3.7 million in fiscal 1999 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 Attorneys' offices statewide would be roughly equal to that on the Public Defender, or an estimated \$3.7 million in fiscal 1999 and more than \$5 million annually.

The total additional cost to local jurisdictions in fiscal 1999 could be \$7.3 million, accounting for the October 1 effective date. Annual operating expenses would be in excess of \$9.7 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 \$23 to \$83 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 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 cannot be reliably estimated at this time, it is assumed to be significant.

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

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