

Department of Legislative Services  
Maryland General Assembly  
1999 Session

**FISCAL NOTE**

Senate Bill 540 (Senators Colburn and Baker)

Judicial Proceedings

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**Death Penalty - Aggravating Circumstances - Drug Trafficking**

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This bill provides an additional aggravating circumstance that must be considered in determining a sentence of death. Specifically, the bill adds cases of first degree murder whereby the murder was carried out during the commission of one of the following controlled dangerous substances trafficking violations: (1) operating as a “drug kingpin”; (2) bringing drugs into the State in excess of certain amounts; (3) using a minor to manufacture, deliver, or distribute drugs; or (4) bringing a minor into the State to use in the commission of specified drug offenses.

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**Fiscal Summary**

**State Effect:** Potential indeterminate increase in general fund expenditures. Revenues would not be affected.

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

**Small Business Effect:** None.

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**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 50 persons sentenced to death in Maryland (representing the imposition of 75 death sentences). Inmates sentenced to death are housed at the

Maryland Correctional Adjustment Center (MCAC) at a cost of approximately \$4,000 per month. The average monthly cost for inmates otherwise incarcerated by the Division of Correction (DOC) is estimated at \$1,600. There are currently 15 persons under sentence of death and 14 are held at MCAC (1 person is in federal custody). The length of stay for inmates at MCAC is anticipated to be 6 to 11 years.

The DOC reports that 120 offenders were convicted of first degree murder in fiscal 1998. One was sentenced to death. The division does not currently know how many of the 120 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 \$75,000 per case, including the fees and costs associated with utilizing outside (panel) attorneys.

**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.

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

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