

Department of Legislative Services
Maryland General Assembly
1999 Session

FISCAL NOTE

House Bill 553 (Delegate O'Donnell. *et al.*)

Judiciary

Sentencing - Death Penalty - Murder in Violation of Protective Order

This bill provides an additional aggravating circumstance that must be considered in determining a sentence of death. Specifically, the bill adds whether the defendant murdered the victim in violation of an existing *ex parte* or protective order.

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 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. None were 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 statewide.

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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dmm/jr

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