

Department of Legislative Services  
Maryland General Assembly  
2000 Session

FISCAL NOTE

House Bill 388 (Delegate Marriott. *et al.*)

Judiciary

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Death Penalty - Moratorium

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This bill prohibits the State from carrying out a death penalty sentence, or issuing a warrant of execution, from July 1, 2000, to June 30, 2003. The bill provides that a warrant of execution issued before July 1, 2000, that has not been carried out by that date, is void and the individual for whom it was issued may not be executed before July 1, 2003.

The bill requires that its provisions be construed so as not to affect other laws concerning the death penalty. The bill's provisions are effective July 1, 2000, but are also contingent upon funding for a two-year study of the death penalty being included in the fiscal 2001 State budget.

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Fiscal Summary

**State Effect:** Minimal. Costs for maintaining death sentence inmates at the Maryland Correctional Adjustment Center (MCAC) would continue from July 1, 2000, to June 30, 2003. Costs for carrying out executions would be abated for the same period. Any potential effect on the Office of the Public Defender cannot be reliably predicted, but it is assumed that death penalty trials would be likely to continue.

**Local Effect:** Minimal. Any potential effect on Offices of State's Attorneys during the three-year moratorium cannot be reliably predicted, but it is assumed that death penalty trials would be likely to continue.

**Small Business Effect:** None.

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## Analysis

**Current Law:** Persons charged with first degree murder, if found guilty, are subject to penalties of life imprisonment, life imprisonment without parole, or death. Decisions to seek the death penalty are made by local State's Attorneys, who exercise discretion and have latitude in bringing such cases. The State is required to provide a person charged with first degree murder with written notice of an intention to seek the death penalty at least 30 days prior to trial.

A separate sentencing proceeding is required to be conducted as soon as practicable after completion of a trial to determine whether the death penalty will be imposed. A court or jury in considering the imposition of the death penalty must first consider whether, beyond a reasonable doubt, any of ten aggravating circumstances exist. Whenever the death penalty is imposed, and the judgment becomes final, the Court of Appeals is required to review the sentence on the record. Administration of the death penalty is required to be carried out by the Division of Correction (DOC).

**Background:** Since July 1, 1978, there have been 51 persons sentenced to death in Maryland (representing the imposition of 77 death sentences). The DOC reports that 121 offenders were convicted of first degree murder in fiscal 1999. One person was sentenced to death. Inmates sentenced to death are housed at the MCAC at a cost of approximately \$4,000 per month. The average monthly cost, including overhead, for inmates otherwise incarcerated by the DOC is estimated at \$1,700. There are currently 16 persons under sentence of death and 15 are held at MCAC (one person is in federal custody). The length of stay for inmates at MCAC is anticipated to be 6 to 11 years.

**State Expenditures:** While the Governor's fiscal 2001 proposed budget does not specifically contain funds to conduct the study referenced in this bill, a fiscal 2000 deficiency appropriation of \$225,000 has been made to study racial disparity in the administration of the death penalty. To the extent that these funds are encumbered and unspent in fiscal 2000, it is assumed that this money, or some portion of it, would be available in future fiscal years for such a study.

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### Additional Information

**Prior Introductions:** During the sessions of 1997, 1998, and 1999, 34 bills have been introduced addressing various aspects of the death penalty. These bills have addressed issues relating to the death penalty ranging from aggravating circumstances, minimum age, the right of removal, procedural delays, jury instructions, appellate review, and study of the death penalty. None of these bills has called for a moratorium on the death penalty.

**Cross File:** None.

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

**Fiscal Note History:** First Reader - February 28, 2000

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