

Department of Legislative Services
Maryland General Assembly
2001 Session

FISCAL NOTE

Senate Bill 812 Senator Van Hollen)

Judicial Proceedings

Judiciary

**First Degree Rape and First Degree Sexual Offense - Mandatory Minimum
Penalty**

This bill alters the penalty for first degree rape and first degree sexual offense to require a mandatory minimum penalty of ten years imprisonment. A person may not be paroled or have the sentence suspended while serving the mandatory minimum.

Fiscal Summary

State Effect: Potential minimal increase in general fund revenues and expenditures due to the bill's mandatory minimum penalty provision.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: A person convicted of first degree rape or first degree sexual offense is subject to a maximum penalty of imprisonment for life. A person convicted of first degree rape or first degree sexual offense against a child under the age of 16 is subject to a maximum penalty of imprisonment for life without the possibility of parole if the person is also convicted in the same proceeding of kidnapping a child under the age of 16. There is no minimum penalty in either case.

A person convicted of first degree rape or first degree sexual offense is eligible for parole after serving the greater of one-half of their aggregate sentence for violent crimes or one-

fourth of their total aggregate sentence. If the person is sentenced to more than one term of imprisonment, and during one of those terms the person is not eligible for parole, the person is not eligible for parole until the person serves the greater of: one-half of the aggregate sentence for violent crime; one-fourth of the total aggregate sentence; or a period equal to the term during which the inmate is not eligible for parole.

State Expenditures: In fiscal 2000 the Division of Correction (DOC) had 22 intakes for first degree rape and nine intakes for first degree sexual offense. The average sentence for first degree rape was 305 months; the average sentence for first degree sexual offense was 286 months. Of that intake, three persons received a life sentence for first degree rape, and two received a life sentence for first degree sexual offense.

The Division of Parole and Probation reports intakes in fiscal 2000 of 22 persons for first degree rape and three for first degree sexual offense. However, it is not known how many of those persons received probation (either before or after judgment) or were released on parole. It is also not known how many of those persons who received parole for these offenses were released prior to serving ten years imprisonment.

Unless there is an overall change in sentencing patterns, it is assumed that the average prison sentences for these offenses would remain about the same. Accordingly, assuming that the fiscal 2000 DOC intake is representative of a typical year, under this bill a person confined for first degree rape or first degree sexual offense would generally serve no additional time because the average sentences currently being served far exceed the ten-year minimum required under this bill. The extent to which individuals would serve a longer sentence or the extent to which individuals would not receive parole or a suspended sentence cannot be reliably predicted.

In any event, to the extent that this bill could increase the time served by certain inmates, general fund expenditures could increase minimally due to some people serving longer terms of confinement at DOC. Persons serving a sentence longer than one year are incarcerated in DOC facilities. Currently, the average total cost per inmate, including overhead, is estimated at \$1,700 per month. This bill alone, however, is not expected to create the need for additional beds, personnel, or facilities. Excluding overhead, the average cost of housing a new DOC inmate (including medical care and variable costs) is \$288 per month. Any such effect is not likely to be felt until fiscal 2009 and beyond.

Additional Information

Prior Introductions: A similar bill, SB 587, was introduced in 1996. It received an unfavorable report from the Judicial Proceedings Committee.

Cross File: None.

Information Source(s): Department of Public Safety and Correctional Services
(Division of Correction), Department of Legislative Services

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