

Department of Legislative Services
Maryland General Assembly
2001 Session

FISCAL NOTE

Senate Bill 755 (Senator Haines, *et al.*)

Judicial Proceedings

Judiciary

Criminal Law - Domestic Abuse Murder

This bill provides that all murder committed in the perpetration of abuse against a spouse, former spouse, child, vulnerable adult, or any other person eligible for relief from domestic violence shall be murder in the first degree, if:

- the person committing the murder has engaged in a past pattern of abuse on the victim; and
- the death occurs under circumstances that show an extreme indifference to human life.

Fiscal Summary

State Effect: General fund expenditures would increase by an estimated \$65,700 over time per defendant who is convicted of first degree murder instead of second degree murder. In addition, the Office of the Public Defender would incur \$10,000 - \$20,000 in additional defense costs per first degree murder case in which representation is provided.

Local Effect: Potential expenditure increases for State's Attorneys' offices.

Small Business Effect: None.

Analysis

Current Law: In general, murder in the first degree is murder perpetrated by means of poison; lying in wait; or by any kind of willful, deliberate, and premeditated killing. Murder committed in perpetration of arson, rape, robbery, kidnapping, and certain other felonies also constitutes first degree murder. All other kinds of murder are deemed

murder in the second degree. A person convicted of first degree murder may be sentenced to death, life imprisonment, or life imprisonment without the possibility of parole. The maximum punishment for a person convicted of second degree murder is 30 years imprisonment. Art. 27, § 407 *et seq.*

State Fiscal Effect: In fiscal 2000, the Division of Correction (DOC) received 117 intakes for second degree murder. The number of these murders that were committed in the perpetration of domestic abuse is not known, but the Office of the Public Defender estimates that approximately 50 defendants per year could be charged with domestic abuse murder pursuant to the bill.

This bill could result in some convictions for first degree murder where the conviction would otherwise be second degree murder or manslaughter. General fund expenditures could increase significantly due to people being committed to DOC facilities for longer periods of time. A person serving a 30-year sentence for second degree murder generally serves approximately 26 years of actual incarceration. Each such individual who would instead receive a life sentence could expect to serve approximately 45 years of actual incarceration. Currently, DOC's average total cost per inmate, including overhead, is estimated at \$1,700 per month. The average variable cost of housing a DOC inmate (food, medical care, etc.), excluding overhead, is \$288 per month. Assuming that this bill alone does not create the need for additional beds, personnel, or facilities, the estimated cost of this bill to DOC is \$65,700 ($\$288 \times 12 \times 19$) over 19 years per defendant who is convicted of first degree murder instead of second degree murder. Incremental incarceration costs could be higher to the extent that the bill results in first degree murder convictions that would have otherwise been manslaughter convictions. The total amount of increased incarceration costs resulting from the bill would depend upon actual case dispositions, sentences imposed, and time served.

The Office of the Public Defender advises that it would incur additional defense costs as a result of the bill, because it is more costly to provide a defense in a first degree murder case than in a second degree murder or manslaughter case. Incremental defense costs are estimated at between \$10,000 and \$20,000 per case.

Local Fiscal Effect: This bill is not expected to affect local incarceration costs because individuals serving sentences of longer than one year are generally incarcerated in DOC facilities. State's Attorneys' Offices could incur increased costs as a result of the bill, however.

Additional Information

Prior Introductions: A similar bill was introduced during the 2000 session as SB 755. That bill passed the Senate but received an unfavorable report from the House Judiciary Committee. A similar bill was also introduced in the 1999 session as HB 393 and received an unfavorable report from the House Judiciary Committee.

Cross File: None.

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

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