

Department of Legislative Services

Maryland General Assembly

2001 Session

FISCAL NOTE

Senate Bill 316 (Senator Blount, *et al.*)

Judicial Proceedings

Death Penalty – Moratorium

This bill prohibits the State from carrying out a death penalty sentence, or issuing a warrant of execution, from July 1, 2001 to June 30, 2003. The bill provides that a warrant of execution issued before July 1, 2001, 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, 2001.

Fiscal Summary

State Effect: Minimal. Costs for maintaining death sentence inmates at the Maryland Correctional Adjustment Center (MCAC) would continue from July 1, 2001 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 two-year moratorium cannot be reliably predicted, but it is assumed that death penalty trials would likely continue.

Small Business Effect: None.

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: Political and social arguments for and against the use of capital punishment have persisted over many years both nationally and in Maryland. Although questions about the use of the death penalty previously focused on the morality of state-sanctioned killing, more attention is now being paid to the ability of government to administer the system fairly -- without racial, geographic, or socioeconomic inequities -- and in a way that minimizes the risk of executing innocent persons.

There are currently 38 states with the death penalty. The following 12 states and the District of Columbia do not currently have a death penalty statute: Alaska, Hawaii, Iowa, Maine, Massachusetts, Michigan, Minnesota, North Dakota, Rhode Island, Vermont, West Virginia, and Wisconsin.

The first call for a moratorium came from the American Bar Association in 1997, proposing a temporary halt while states put in place policies to ensure fairness and to minimize the risk of executing the innocent. Illinois is the only state to have actually adopted a moratorium to date, though others have considered it. Nebraska's approval of a moratorium in 1999 was vetoed by the governor. In New Hampshire, where no one is on death row, the legislature voted last spring to abolish executions, but the governor vetoed the measure.

In Maryland, since the death penalty was reinstituted on July 1, 1978, there have been 52 persons sentenced to death (representing the imposition of 78 death sentences). To date, three persons have been executed, all in the 1990s. There are currently 13 persons under sentence of death, of whom all but one are held at the Maryland Correctional Adjustment

Center (one person is in federal custody). Four of these 13 inmates could be scheduled for execution in the near future since they are likely to exhaust collateral challenges to their convictions and/or sentences by early 2001.

The Governor has authorized the spending of \$225,000 on a study of racial disparity and fairness issues by the Criminology Department at the University of Maryland, College Park. The study is expected to take about two years (concluding by Fall of 2002) and will include data collection from a wide variety of sources searching for and identifying certain case characteristics for all capital cases tried in the State since the reintroduction of capital punishment in 1978. Similar studies are being conducted in Nebraska, Illinois, and Indiana.

Additional Comments: See **Exhibits 1** and **2** for further detail on death row inmates and executions nationally.

Additional Information

Prior Introductions: During the 2000 session, a similar bill, HB 388, was introduced and received an unfavorable report from the House Judiciary Committee. 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 called for a moratorium on the death penalty.

Cross File: HB 563 (Delegate Marriott, *et al.*) – Judiciary.

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 20, 2001
jm/jr

Analysis by: Guy G. Cherry

Direct Inquiries to:
John Rixey, Coordinating Analyst
(410) 946-5510
(301) 970-5510

Exhibit 1

TOTAL EXECUTIONS BY STATE SINCE 1976

STATE	CURRENT DEATH ROW INMATES	EXECUTIONS SINCE 1976
Alabama	185	23
Alaska	NO DEATH PENALTY	
Arizona	120	22
Arkansas	42	23
California	582	8
Colorado	7	1
Connecticut	6	0
Delaware	18	11
Florida	385	50
Georgia	136	23
Hawaii	NO DEATH PENALTY	
Idaho	21	1
Illinois	172	12
Indiana	44	7
Iowa	NO DEATH PENALTY	
Kansas	4	0
Kentucky	42	2
Louisiana	93	26
Maine	NO DEATH PENALTY	
Maryland	17	3
Massachusetts	NO DEATH PENALTY	
Michigan	NO DEATH PENALTY	
Minnesota	NO DEATH PENALTY	
Mississippi	64	4
Missouri	81	46
Montana	6	2
Nebraska	10	3
Nevada	93	8
New Hampshire	0	0
New Jersey	17	0
New Mexico	5	0
New York	6	0
North Carolina	237	16
North Dakota	NO DEATH PENALTY	
Ohio	202	1
Oklahoma	137	30
Oregon	29	2
Pennsylvania	238	3
Rhode Island	NO DEATH PENALTY	
South Carolina	71	25
South Dakota	3	0
Tennessee	102	1
Texas	448	239
Utah	11	6
Vermont	NO DEATH PENALTY	
Virginia	29	81
Washington	16	3
West Virginia	NO DEATH PENALTY	
Wisconsin	NO DEATH PENALTY	
Wyoming	2	1
US Military	7	0
US Government	24	0
TOTALS	3,703	670

Source: Death Penalty Information Center, January 2001

Exhibit 2

Freed from Death Row

(Since 1976)

Average number of years between being sentenced to death and release: 7.8 years

By State

Florida	20	New Mexico	4	Ohio	2
Illinois	13	North Carolina	3	Maryland	1
Oklahoma	7	Pennsylvania	3	Massachusetts	1
Texas	7	South Carolina	3	Mississippi	1
Georgia	6	Alabama	2	Nevada	1
Louisiana	5	Indiana	2	Washington	1
Arizona	4	Missouri	2	Virginia	1

By Race

African American	43
White	37
Latino	10
Native American	1
Other	1

Source: Death Penalty Information Center, January 2001