

Department of Legislative Services
Maryland General Assembly
2002 Session

FISCAL NOTE

Senate Bill 72 (Senator Van Hollen, *et al.*)
Judicial Proceedings

**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, except under provisions providing for parole procedures for an inmate in the Patuxent Institution who has an intellectual impairment or emotional imbalance.

Fiscal Summary

State Effect: Potential minimal increase in general fund expenditures after FY 2009 due to the bill's mandatory minimum penalty provision. The bill would have a negligible fiscal impact on the Maryland Parole Commission.

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 2001 the Division of Correction (DOC) had 21 intakes for first degree rape and 15 intakes for first degree sexual offense. The average sentence for first degree rape was 368 months (30.7 years); the average sentence for first degree sexual offense was 282 months (23.5 years). 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 number of these offenders, if any, whose sentence was for a shorter period than ten years is not known.

The Division of Parole and Probation reports intakes in fiscal 2001 of 13 persons for first degree rape and 11 for first degree sexual offense. It is not known how many of these persons were released from incarceration prior to serving ten years imprisonment.

Because it is apparent that the average sentences currently being served far exceed the ten-year minimum required under this bill, it is assumed that the bill would not have a significant impact on sentencing patterns or the amount of time served by people convicted of rape or first degree sexual offense.

To the extent that this bill would increase the time served by certain inmates at DOC, general fund expenditures would increase minimally. 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 \$1,850 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 \$300 per month. Any such effect is not likely to be felt until fiscal 2010 and beyond.

Additional Information

Prior Introductions: Similar bills were introduced during the 1996 and 2001 sessions. In 2001, SB 812 passed the Senate, had a hearing before the House Judiciary Committee,

and had no further action taken on it. In 1996, SB 587 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, Division of Parole and Probation), Department of Legislative Services

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