

Department of Legislative Services
Maryland General Assembly
2002 Session

FISCAL NOTE

House Bill 983
Judiciary

(Delegate Finifter, *et al.*)

Crimes - Biological Terrorism

This bill establishes the crime of biological terrorism by prohibiting the use, deployment, or release, or attempting or causing the use, deployment, or release of a biological weapon with the intent to: (1) intimidate or coerce a civilian population; or (2) influence the policy of or affect the conduct of a unit of government. A violator is guilty of a felony and subject to a life sentence without the possibility of parole. The bill provides that the imposition of the death penalty is not precluded, and that biological terrorism is included among the felonies that may be predicate felonies to murder in the first degree.

Fiscal Summary

State Effect: Potential general fund expenditure increases for the Office of the Public Defender. Additional imprisonment costs associated with lengthier incarcerations would not be felt until future years.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: A person may not knowingly: (1) manufacture, transport, possess, control, store, sell, distribute, or use a “destructive device;” or (2) possess “explosive material,” incendiary material, or “toxic material” with intent to create a destructive device. A violator is subject to maximum penalties of a fine of \$250,000 and/or imprisonment for 25 years.

A sentence may be separate from and consecutive to or concurrent with a sentence for a crime based on the act or acts establishing the violation. In addition to any other penalty authorized, if the person convicted or found to have committed a delinquent act under this prohibition is a minor, the court may order the motor vehicle administration to initiate an action, under the motor vehicle laws, to suspend the driving privilege of the minor for a specified period not to exceed six months for a first violation and one year for each subsequent violation, or until the person is 21 years old, whichever is longer.

In addition to the criminal penalty, a court may order a person convicted or found to have committed a delinquent act under this prohibition to pay restitution to various governmental entities for actual response costs, as well as to the owner or tenant of a property for the actual value of any goods, services, or income lost as a result of an evacuation of the property.

A murder is in the first degree if it is:

- a deliberate, premeditated, and willful killing;
- committed by lying in wait;
- committed by poison; or
- committed in the perpetration of or an attempt to perpetrate:
 - arson in the first degree;
 - burning an outbuilding meeting certain requirements;
 - burglary in the first, second, or third degree;
 - carjacking or armed carjacking;
 - escape in the first degree from a State or local correctional facility;
 - kidnapping;
 - mayhem;
 - rape;
 - robbery;
 - sexual offense in the first or second degree;
 - sodomy; or
 - a certain violation concerning destructive devices.

A person who commits a murder in the first degree is guilty of a felony and on conviction must be sentenced to death, imprisonment for life without the possibility of parole, or imprisonment for life. A minimum of life imprisonment is required to be imposed for first degree murder.

Background: This bill is in response to general and specific concerns that have arisen nationally relating to threats of terrorism, including biological terrorism, since September

11, 2001. Generally, State efforts have centered on creating specific statutory crimes for terrorist acts and providing appropriate penalties for making false threats or creating fear.

State Expenditures: General fund expenditures could eventually increase as a result of the bill's incarceration penalty due to more people being committed to Division of Correction (DOC) facilities for longer periods of time. The number of people that would be convicted under this bill's provisions is unknown. Under current law sentencing practices, a person sentenced to life without the possibility of parole may earn diminution credits and is expected to serve a term of about 540 months (45 years).

Generally, 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, should not 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.

In addition, litigation of cases involving a penalty of life without parole are lengthy because few defendants will plead guilty to an offense carrying such a penalty and because sentencing proceedings frequently include defenses involving lay and expert testimony and other evidence that might militate against such a sentence being rendered. The Public Defender estimates the cost of a fully litigated life without parole case at about \$25,000, including the costs of experts, records, and investigation.

Additional Information

Prior Introductions: None.

Cross File: None.

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

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