

Department of Legislative Services
Maryland General Assembly
2003 Session

FISCAL AND POLICY NOTE

House Bill 665
Judiciary

(Delegate Brown, *et al.*)

Task Force to Study the Need for Prosecutorial Guidelines and Procedures to Govern Death Penalty Decisions

This bill establishes a Task Force to Study the Need for Prosecutorial Guidelines and Procedures to Govern Death Penalty Decisions. Staff support must be provided by the Department of Public Safety and Correctional Services (DPSCS). The task force is required to report to the Governor, the Lieutenant Governor, the Court of Appeals, the President of the Senate, the Speaker of the House, the House Judiciary and Senate Judicial Proceedings committees, and the General Assembly by December 30, 2003.

The bill is effective June 1, 2003 and terminates on May 31, 2004.

Fiscal Summary

State Effect: Any expense reimbursements for task force members and staffing costs for DPSCS are assumed to be minimal and absorbable within existing budgeted resources.

Local Effect: None.

Small Business Effect: None.

Analysis

Background: In January 2003, the University of Maryland released a much anticipated study of the administration of the death penalty in Maryland. The study, entitled, *An Empirical Analysis of Maryland's Death Sentencing System With Respect to the Influence of Race and Legal Jurisdiction*, reviewed 6,000 first and second degree murder cases that

were prosecuted between July 1978 and December 1999. The study concluded that, by itself, the offender's race did not play any clear role in the processing of death penalty cases at any of the stages. However, geography and the race of the victim did have an impact in the administration of death penalty cases. The study concluded that the probability of a death sentence in Baltimore County is 26 times higher than the probability of a death sentence in Baltimore City. An offender is 14 times more likely to receive a death sentence in Baltimore County than in Montgomery County and seven times more likely to receive a death sentence than a defendant in Prince George's County. The study found that black offenders who kill whites are twice as likely to get a death sentence as whites who kill whites. Black offenders who kill whites are four times more likely to get a death sentence than blacks who kill black victims.

In the study, the practice of the Baltimore County State's Attorney, who seeks the death penalty in nearly every death penalty eligible case, was contrasted with the practices of State's Attorneys in Baltimore City and Prince George's County, two jurisdictions with a large number of black homicide victims. In Baltimore City and Prince George's County, the State's Attorneys sought the death penalty on a far less frequent basis than the prosecutor in Baltimore County.

The State's Attorneys, who are responsible for prosecution of capital crimes, have wide discretion to determine whether or not to process a death penalty eligible homicide as a capital crime. In the University of Maryland study, 1,311 cases that met the legal definition for "death penalty eligible" from the period of 1978 to 1999 were reviewed. Out of those cases, State's Attorneys filed a formal notification to seek the death penalty in 353 cases, or 27% of the total number of cases. The formal notification was withdrawn in 140 of the 353 cases (40% of the death penalty eligible cases), most frequently due to a plea with the defendant. In about 60%, or 213 cases, the death penalty notification was filed and retained. From the group of cases in which the death penalty notification was filed and retained, 180 cases, or 84%, advanced to a penalty trial.

Governor Parris Glendening commissioned the latest study of Maryland's death penalty in September 2000. In May 2002, he imposed a moratorium on all executions in the State until the completion of the study. The moratorium remained in effect until the inauguration of Governor Robert Ehrlich. There are currently 12 inmates on death row in Maryland. Eight are black and four are white. Nine of the 12 come from Baltimore County. Governor Robert Ehrlich indicated that he does not plan to continue the death penalty moratorium. He has asked the Lieutenant Governor to review the University of Maryland study and present recommendations regarding its continued administration.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Public Safety and Correctional Services,
University of Maryland, Department of Legislative Services

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