

Department of Legislative Services
Maryland General Assembly
2004 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 490

(Senator Jimeno, *et al.*)

Judicial Proceedings

Judiciary

**Courts - Criminal Cases - Release of Defendant Charged with Crime of Violence
Pending Appeal by the State**

This bill provides that pending the prosecution and determination of an appeal by the State, in a case in which the defendant is charged with a crime of violence, the court may release the defendant on any terms and conditions that the court considers appropriate, or may order the defendant remanded to custody pending the outcome of the appeal. The determination and enforcement of any terms and conditions of release shall be in accordance with existing statutory provisions relating to release of a defendant.

Fiscal Summary

State Effect: Potential minimal increase in pretrial detention costs for defendants held in Baltimore City facilities.

Local Effect: Potential minimal increase in pretrial detention costs for defendants held outside of Baltimore City.

Small Business Effect: None.

Analysis

Current Law: A court must release on personal recognizance a criminal defendant charged with a crime of violence, while the State is appealing a court ruling excluding evidence offered by the State or requiring the return of property found to have been seized in violation of the defendant's constitutional rights. A person released on personal recognizance is freed based on a promise to return to court, without having to post bail.

A “crime of violence” means:

- abduction;
- arson in the first degree;
- kidnapping;
- manslaughter;
- mayhem;
- maiming;
- murder;
- rape;
- robbery;
- carjacking;
- armed carjacking;
- sexual offense in the first or second degree;
- use of a handgun in the commission of a felony or other crime of violence;
- an attempt to commit any of the above crimes;
- assault in the first degree; and
- assault with intent to murder, rape, rob, or commit a first or second degree sexual offense.

Background: The current statute has received substantial attention since the release on personal recognizance of two defendants charged with first degree murder in connection with a death that occurred in the Annapolis Historic District in September 2002. Each defendant confessed to having played a role in the crime, but their confessions were ruled inadmissible by the court. They were released pending the State’s appeal of these rulings.

State Expenditures: Baltimore City defendants are held pretrial in either the Central Booking and Intake Center or the Baltimore City Detention Center, which are both operated by the State. The estimated daily cost per inmate is \$62. The number of people affected by this bill is expected to be small.

Local Expenditures: Pretrial detainees, except those held in Baltimore City, are held in local detention facilities. Per diem operating costs of local detention facilities are expected to range from \$29 to \$97 per inmate in fiscal 2005.

Additional Information

Prior Introductions: None.

Cross File: HB 80 (Delegate Sophocleus, *et al.*) – Judiciary.

Information Source(s): State's Attorneys' Association, Judiciary (Administrative Office of the Courts), Department of Public Safety and Correctional Services (Patuxent Institution), Department of Legislative Services

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