

**Department of Legislative Services**  
Maryland General Assembly  
2004 Session

**FISCAL AND POLICY NOTE**

Senate Bill 356 (Senators Stone and Giannetti)  
(Committee to Revise Article 27 – Crimes and Punishments)

Judicial Proceedings

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**Criminal Law - Involuntary Manslaughter and Voluntary Manslaughter -  
Designations**

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This bill provides a statutory distinction between voluntary and involuntary manslaughter. In addition, the bill provides that in certain cases a judge must make determinations relating to whether a defendant should be found guilty of involuntary or voluntary manslaughter.

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**Fiscal Summary**

**State Effect:** The bill is not expected to have a significant impact on the District Court's workload or State incarceration, probation, or parole costs.

**Local Effect:** The bill is not expected to have a significant impact on circuit court workload or local detention costs.

**Small Business Effect:** None.

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**Analysis**

**Bill Summary:** In a case tried before a jury, if the jury finds the defendant guilty of manslaughter but does not specify whether it is voluntary manslaughter or involuntary manslaughter, the judge shall enter a verdict of guilty of involuntary manslaughter.

In a case tried before a judge as the trier of fact, if the judge finds the defendant guilty of manslaughter, the judge shall specify whether it is voluntary manslaughter or involuntary manslaughter.

In a case involving the charge of manslaughter, if the defendant elects to enter a guilty plea, the judge shall require that the defendant plead guilty to either voluntary manslaughter or involuntary manslaughter.

**Current Law:** The bill retains the current characterization of manslaughter as a common law offense. The meaning accorded to involuntary and voluntary manslaughter is judicially determined and based on case law. The distinction generally depends on whether there was an intention to kill. Manslaughter generally is a felony and distinct from murder by virtue of the absence of malice. Voluntary manslaughter is distinguished from murder by absence of malice aforethought, express or implied, and by having a reasonable provocation.

Manslaughter, except for involuntary manslaughter, is a crime of violence for purposes of sentencing and parole laws. The crime is a felony, with a maximum penalty of 10 years imprisonment in a State facility, or two years detention in a local facility and/or a \$500 fine.

The Maryland Parole Commission has the power to parole an inmate in a Division of Correction (DOC) facility. The Board of Review has this power for the Patuxent Institution. The Secretary of Public Safety and Correctional Services must also approve each parole, and seven of the nine members of the Board of Review are required to approve parole for an inmate at Patuxent.

A person sentenced to a term of incarceration of six months or more is entitled to a parole hearing after having served one-fourth of the term or consecutive terms. A person sentenced to more than one term, including a term during which the person is eligible for parole and a term during which the person is not eligible for parole, cannot be considered for parole unless the person has served the greater of one-fourth of the aggregate term or a period equal to the term during which the inmate is not eligible for parole.

A person convicted of a violent crime is not eligible for parole until that person has served the greater of one-half of the aggregate sentence for violent crimes or one-half of the aggregate total sentence. A person serving a term for a violent crime may receive an administrative review after that person has served one-fourth of the term of confinement or a period equal to any term in which the inmate is not eligible for parole.

**Background:** The Committee to Revise Article 27 was appointed in 1991 by the Speaker and the President and charged with making both substantive and stylistic changes to the State's criminal law. The committee is composed of legislators, judges, lawyers representing both defendants and the State, and a victims' rights representative. In past sessions the committee has successfully sponsored legislation to revise the laws

on accessory before and after the fact, arson, assault, benefit of clergy, burglary, destructive devices, disorderly conduct, escape, leased or rented goods, Medicaid fraud, offensive contact, prostitution, robbery, sabotage, trespass, and victims' rights. The commission's New Issues Subcommittee suggested this bill to assist the parole authority in determining an inmate's eligibility for parole.

**State Expenditures:** It is unclear to what extent, if any, the bill would affect sentences for manslaughter. The bill retains the current sentencing structure. However, to the extent more defendants are found guilty of involuntary manslaughter and potentially sentenced to shorter periods of incarceration, DOC expenses could decrease.

Persons serving a sentence longer than 18 months are incarcerated in DOC facilities. Currently, the average total cost per inmate, including overhead, is estimated at \$1,850 per month. Excluding overhead, the average cost of housing a new DOC inmate (including medical care and variable costs) is \$350 per month. Excluding medical care, the average variable costs total \$120 per month.

Persons serving a sentence of one year or less in a jurisdiction other than Baltimore City are sentenced to local detention facilities. For persons sentenced to a term of between 12 and 18 months, the sentencing judge has the discretion to order that the sentence be served at a local facility or DOC. The State reimburses counties for part of their incarceration costs, on a per diem basis, after a person has served 90 days. State per diem reimbursements for fiscal 2005 are estimated to range from \$14 to \$58 per inmate depending upon the jurisdiction. Persons sentenced to such a term in Baltimore City are generally incarcerated in DOC facilities.

The Division of Parole and Probation advises that the bill would have no fiscal impact on its operations.

**Local Expenditures:** Local expenditures could increase if the bill results in shorter periods of incarceration. Counties pay the full cost of incarceration for people in their facilities for the first 90 days of the sentence, plus part of the per diem cost after 90 days. Per diem operating costs of local detention facilities are expected to range from \$29 to \$97 per inmate in fiscal 2005.

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### **Additional Information**

**Prior Introductions:** Two similar but broader bills were introduced in 1998. HB 671 received an unfavorable report from the House Judiciary Committee. SB 347 passed the Senate, but also received an unfavorable report from the House Judiciary Committee.

**Cross File:** HB 577 (Delegate Brown) (Committee to Revise Article 27 – Crimes and Punishments) – Judiciary.

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

**Fiscal Note History:** First Reader - February 25, 2004  
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