

Department of Legislative Services
Maryland General Assembly
2004 Session

FISCAL AND POLICY NOTE

House Bill 1267
Judiciary

(Delegate Quinter, *et al.*)

Pregnant Woman's Protection Act

This bill increases the maximum imprisonment penalties for a person convicted of second degree murder, manslaughter, and first and second degree assault when the person knew or had reason to know that the victim was pregnant. Specifically, the bill increases the maximum imprisonment penalties for these offenses, under such circumstances, as follows: (1) for second degree murder, from 30 to 35 years; (2) for manslaughter, from 10 to 15 years; (3) for first degree assault, from 25 to 30 years; and (4) for second degree assault, from 10 to 15 years.

Fiscal Summary

State Effect: Potential minimal increase in general fund expenditures due to the bill's increased incarceration penalty provisions. Revenues would not be affected.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: A murder that is not first degree murder is considered second degree murder. A violator is guilty of a felony and subject to imprisonment for up to 30 years.

Manslaughter is 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.

First degree assault is limited to intentionally causing or attempting to cause serious physical injury to another, or committing an assault with a firearm. Violators are guilty of a felony and subject to a maximum penalty of 25 years' imprisonment. An assault on any person that does not involve causing or attempting to cause serious physical injury or the use of a firearm is assault in the second degree. Violators are guilty of a misdemeanor and subject to maximum penalties of a fine of \$2,500 and/or imprisonment for 10 years.

State Expenditures: General fund expenditures could increase minimally as a result of the bill's increased incarceration penalties due to people being committed to Division of Correction (DOC) facilities for longer periods of time. The number of people convicted of these crimes under the covered circumstances is expected to be minimal.

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. 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 \$350 per month. Excluding medical care, the average variable costs total \$120 per month.

Additional Information

Prior Introductions: None.

Cross File: None.

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

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