

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE

Senate Bill 52
Judicial Proceedings

(Senator Green)

Criminal Law - Intimidation of Witnesses

This bill expands the crime of inducing false testimony or avoidance of a subpoena and increases the seriousness and penalties for that offense, as well as for the crimes of retaliation for testimony and intimidating or corrupting a juror. The bill makes these offenses felonies rather than misdemeanors and increases the maximum imprisonment penalties for these offenses from five to 20 years. The bill eliminates these crimes from the exclusive original jurisdiction of the juvenile court if the offense is committed by a child 16 or older.

Fiscal Summary

State Effect: Potential increase in general fund expenditures due to the bill's increases in incarceration penalty provisions.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: Under current law, the crime of inducing false testimony or avoidance of a subpoena prohibits a person from harming another, threatening to harm another, or damaging or destroying property with the intent to: (1) influence a victim or witness to testify falsely or withhold testimony; or (2) induce a victim or witness to avoid service of a subpoena or summons to testify, or to be absent from an official proceeding to which the victim or witness has been subpoenaed or summoned. This bill expands that offense

by also prohibiting a person from causing another person to harm another, threaten to harm another, or damage or destroy property with similar intent.

The bill does not alter the maximum fine of \$10,000 applicable when a person has been convicted of intimidating or corrupting a juror.

Current Law: The crimes of inducing false testimony or avoidance of a subpoena, retaliation for testimony, and intimidating or corrupting a juror are misdemeanors which subject a violator to a maximum imprisonment of five years. In addition, a person convicted of intimidating or corrupting a juror is also subject to a maximum fine of \$10,000 and/or the imprisonment term.

Background: Witness intimidation continues to be an impediment to the effective prosecution of violent crimes, especially in jurisdictions where witnesses are reluctant to testify for fear of their lives.

Intimidation by drug dealers has been a top concern in Baltimore City, where a husband and wife and five children were killed in 2002 after their home was firebombed in retaliation for calls to police against local drug dealers. In January 2005, city detectives sought federal grand jury indictments against four men accused of involvement in a retaliatory firebombing at the North Baltimore home of a woman who had reported drug activity to police. In addition, a so-called “Stop Snitching” DVD has been distributed in Baltimore.

In response to problems of witness intimidation, the Standing Committee on Rules of Practice and Procedure of Maryland’s Court of Appeals has recommended additional hearsay exceptions applicable to circumstances under which a witness has been made unavailable for court.

Changing crimes from misdemeanors to felonies generally means: (1) that such cases will be filed in the circuit courts rather than the District Court; and (2) some persons could eventually serve longer incarcerations due to enhanced penalty provisions, applicable to some offenses, for prior felony convictions. However, it is not known whether the prospect of a jury trial might spur more plea bargains and affect actual sentencing practices for these offenses.

State Expenditures: General fund expenditures could increase minimally as a result of the bill’s changes to incarceration penalty provisions due to people being committed to Division of Correction (DOC) facilities for longer periods of time. The number of people subjected to these penalty increases 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 \$310 per month. Excluding medical care, the average variable costs total \$120 per month.

Additional Information

Prior Introductions: HB 263 of 2004, an identical bill, received an unfavorable report from the Judiciary Committee.

Cross File: None.

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

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