

Department of Legislative Services
Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE

Senate Bill 105 (Senator Astle)
Judicial Proceedings

Criminal Law - Voluntary Manslaughter and Involuntary Manslaughter

This bill establishes that the crimes of voluntary manslaughter and involuntary manslaughter exist in the State as separate offenses with separate penalty provisions. The bill specifies that both crimes are felonies and retain their judicially determined meanings. It makes several conforming changes to other statutory provisions affected by these changes as are found in sections of the Courts and Judicial Proceedings Article relating to jurisdictions of the courts and battered spouse prosecutions; and in the Criminal Law Article under provisions relating to the year and a day rule for homicide prosecutions and under definitions of crimes of violence (under both the general mandatory sentencing provisions for such crimes and the Uniform Machine Gun Act).

The bill also establishes that only the crime of voluntary manslaughter subjects a violator to a maximum imprisonment for 10 years. A person convicted of involuntary manslaughter is subject to maximum penalties of imprisonment in a local correctional facility for two years and/or a fine of \$500.

Fiscal Summary

State Effect: None. The bill's clarifications of provisions relating to manslaughter are not expected to result in any increase of persons charged, taken to trial, or incarcerated.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: Manslaughter is a common law offense. The meanings accorded to involuntary and voluntary manslaughter are judicially determined and based on case law. Manslaughter is distinguished from murder by the absence of malice aforethought, express or implied. The absence of intention to kill or to commit any unlawful act which might reasonably produce death or great bodily harm is generally the distinguishing factor between voluntary and involuntary manslaughter.

A person who commits manslaughter is guilty of a felony and subject to maximum penalties of: (1) imprisonment for 10 years; or (2) imprisonment in a local correctional facility for 2 years and/or a fine of \$500. Voluntary manslaughter is a crime of violence for purposes of sentencing and parole laws.

The discovery of one's spouse engaged in sexual intercourse with another does not constitute legally adequate provocation for the purpose of mitigating a killing from the crime of murder to voluntary manslaughter even though the killing was provoked by the discovery.

Background: The Office of the Attorney General has advised that the lack of statutory distinction between voluntary and involuntary manslaughter is "an area of confusion ... that may require legislation to correct." The Attorney General finds that the disparity between the penalty of a maximum of 10 years imprisonment or 2 years imprisonment and/or a \$500 fine for the crime of manslaughter is unusual and a court could impose either maximum penalty for voluntary or involuntary manslaughter. Although the manslaughter statute does not distinguish between voluntary and involuntary manslaughter, other provisions in the Annotated Code do make such a distinction. As a result, a defendant sentenced to 10 years imprisonment is also subject to mandatory sentencing for crimes of violence, parole eligibility, death penalty sentencing, and firearms licensing.

In addition, the Administrative Office of the Courts has established a single computer code for all manslaughter convictions. This coding is used throughout the State's criminal justice system, including with the Criminal Justice Information System maintained by the Department of Public Safety and Correctional Services. Within the Division of Correction (DOC), all manslaughter convictions are considered to be voluntary manslaughter unless DOC is advised otherwise by a court. This tends to adversely affect diminution credit earnings for an inmate.

The bill is intended to address the concerns raised by the Attorney General.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Anne Arundel, Baltimore, Garrett, and Montgomery counties; Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Department of State Police; Office of the Public Defender; State Prosecutor's Office; Department of Public Safety and Correctional Services; State's Attorneys' Association; Office of the Attorney General; Department of Legislative Services

Fiscal Note History: First Reader - January 27, 2009
mam/kdm

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