

Department of Legislative Services
Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE

Senate Bill 416

(Senator Forehand, *et al.*)

Judicial Proceedings

Crimes - Solicitation to Commit Murder or Arson - Statute of Limitations

This bill establishes that the statute of limitations for the prosecution of the crime of solicitation to commit murder in the first or second degree or arson in the first or second degree is the statute of limitations for the prosecution of the substantive crime that is the subject of the solicitation. Since there is no statute of limitations for murder or arson, these solicitation offenses may be prosecuted at any time.

Fiscal Summary

State Effect: Minimal increase in general fund revenues and expenditures if the bill's elimination of the statute of limitations for solicitation results in an increase in the number of fines imposed in District Court cases and an increase in incarcerations in State facilities.

Local Effect: Minimal increase in local revenues from fines imposed in circuit court cases.

Small Business Effect: None.

Analysis

Current Law: Under the common law, solicitation involved urging, advising, or otherwise inciting another person to commit a crime. Solicitation, like an attempt to commit a crime or a conspiracy to commit a crime, is referred to as an "inchoate" crime. Inchoate crimes reflect steps taken toward the commission of another crime (the substantive crime) that are serious enough that they are considered criminal behavior worthy of punishment.

In general, prosecution for a misdemeanor must be instituted within one year after the offense was committed. However, if a statute establishes that a misdemeanor is punishable by confinement in the penitentiary, the State may institute a prosecution for the misdemeanor at any time. Under the common law, solicitation is a misdemeanor regardless of whether the substantive crime that is the basis of the solicitation is a misdemeanor or felony. There is no statute of limitations for a felony.

Current law specifies that the statute of limitations for the prosecution of the crime of conspiracy is the statute of limitations for the prosecution of the substantive crime that is the subject of the conspiracy.

State Fiscal Effect: Inchoate crimes are generally common law crimes. However, some inchoate crimes (*e.g.*, attempted murder, rape, sexual offense, and robbery) have been made statutory felonies. The maximum penalty for an attempt or conspiracy to commit a crime is the maximum penalty for the crime that is the subject of the attempt or conspiracy. Assuming that the same maximum penalty applies to solicitation, which is the remaining inchoate crime, if the bill's increase in the statute of limitations increases the number of convictions for solicitation, the bill results in increased general fund revenues from fines imposed in District Court cases and increased general fund expenditures for incarcerations in State facilities.

First degree murder is punishable by death, under specified circumstances, or imprisonment for life (with or without the possibility of parole). Second degree murder is punishable by imprisonment for up to 30 years. Arson in the first degree is punishable by imprisonment for up to 30 years and/or a maximum fine of \$50,000. Arson in the second degree is punishable by imprisonment for up to 20 years and/or a maximum fine of \$30,000

Persons serving a sentence longer than 18 months are incarcerated in State correctional facilities. Currently, the average total cost per inmate, including overhead, is estimated at \$2,900 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 State inmate (including variable medical care and variable operating costs) is about \$370 per month. Excluding all medical care, the average variable costs total \$180 per month.

Local Revenues: Local revenues increase from fines imposed in circuit court cases.

Additional Information

Prior Introductions: None.

Cross File: HB 699 (Delegate Waldstreicher, *et al.*) - Judiciary.

Information Source(s): Judiciary (Administrative Office of the Courts), State's Attorneys' Association, Department of Legislative Services

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mc/kdm

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