

Department of Legislative Services
Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE

Senate Bill 136

(Senators Brochin and Stone)

Judicial Proceedings

Judiciary

Criminal Law - Second-Degree Murder - Penalty

This bill increases the maximum term of imprisonment for second-degree murder from 30 to 40 years.

Fiscal Summary

State Effect: General fund expenditures increase, perhaps significantly, due to the bill's enhanced incarceration penalty. Revenues are not affected.

Local Effect: The bill does not materially affect local finances.

Small Business Effect: None.

Analysis

Current Law: A murder that is not in the first degree under § 2-201 of the Criminal Law Article is considered second-degree murder, a felony punishable by imprisonment for up to 30 years.

A murder is in the first degree if it is (1) a deliberate, premeditated, and willful killing; (2) committed by lying in wait; (3) committed by poison; or (4) committed in the perpetration of or an attempt to perpetrate specified crimes, including first degree arson, burglary in the first through third degrees, kidnapping, carjacking, rape, or a first- or second-degree sexual offense.

Background: According to the Maryland State Sentencing Guidelines Database, there were 56 convictions for second-degree murder in the State's circuit courts during

fiscal 2013. The sentences imposed for these convictions ranged from 5 to 30 years, with an average sentence of 27.6 years, including suspended time. Excluding suspended time, the average sentence imposed was 23.6 years.

State Expenditures: General fund expenditures increase, perhaps significantly, as a result of the bill's increase of an existing incarceration penalty due to people being committed to State correctional facilities for longer periods of time. However, the extent of the bill's fiscal impact depends on judicial sentencing behavior.

As previously noted, the average sentence (excluding suspended time) for the 56 convictions for second-degree murder in fiscal 2013 was 23.6 years. This represents 78.7% of the maximum incarceration penalty available under current statute.

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 \$3,100 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 health care costs) is about \$735 per month. Excluding all health care, the average variable costs total \$185 per month.

For illustrative purposes only, if judges sentence individuals convicted of second-degree murder to 78.7% of the 40-year maximum incarceration penalty under the bill, then the average sentence (excluding suspended time) imposed is 31.48 years. This represents an increase of 7.88 years in the average sentence.

The average variable cost (excluding health care costs) of housing an inmate in a State correctional facility is \$185 per month or \$2,220 per year. Applying this cost to the additional 7.88 years of incarceration mentioned above results in an additional expenditure of \$17,494 per individual convicted of second-degree murder under the bill.

Assuming that an average of 50 individuals are convicted of second-degree murder every year, general fund expenditures may increase by as much as \$874,860 for the additional 7.88 years of incarceration imposed on the annual cohort of individuals convicted of second-degree murder. This estimate does not account for additional applicable variables, such as diminution credits, sentences for more serious offenses imposed on individuals convicted of second-degree murder, and individuals convicted of multiple counts of second-degree murder.

However, as previously noted, the magnitude of the bill's fiscal impact depends on judicial sentencing behavior and the actual amount of additional incarceration time served by individuals convicted of second-degree murder under the bill's provisions.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland State Commission on Criminal Sentencing Policy, Judiciary (Administrative Office of the Courts), Department of Public Safety and Correctional Services, Department of Legislative Services

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mm/kdm

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