

Department of Legislative Services
 Maryland General Assembly
 2015 Session

FISCAL AND POLICY NOTE

House Bill 813 (Delegate A. Washington, *et al.*)
 Judiciary

State Prosecutor - Law Enforcement Officer-Involved Deaths

This bill requires the State Prosecutor to investigate a criminal offense related to the death of an individual that results directly or indirectly from an action or an omission of a law enforcement officer while the officer is on duty or while the officer is off duty but performing activities that are within the scope of the officer’s official duties.

Fiscal Summary

State Effect: General fund expenditures increase by \$58,900 in FY 2016 for the Office of the State Prosecutor (OSP) to hire an additional investigator to conduct the required investigations. Future year expenditures reflect annualization and inflation. The bill does not materially impact the workload of the Judiciary. Revenues are not affected.

(in dollars)	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	58,900	74,400	77,900	81,600	85,400
Net Effect	(\$58,900)	(\$74,400)	(\$77,900)	(\$81,600)	(\$85,400)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: The bill does not materially impact the workload of the circuit courts.

Small Business Effect: None.

Analysis

Current Law: Each county has an elected State’s Attorney who is responsible for the prosecution of crimes within the jurisdiction.

OSP is an independent Executive Branch agency. The State Prosecutor investigates and prosecutes specified criminal offenses committed by public officials. OSP conducts these

investigations on its own initiative or at the request of the Governor, the Attorney General, the General Assembly, the State Ethics Commission, or a State’s Attorney. OSP investigates the following types of cases: (1) criminal offenses under the State election and public ethics laws; (2) violations of the State bribery laws in which a public official or employee was offered or solicited a bribe; (3) criminal malfeasance, misfeasance, or nonfeasance in office committed by a public officer or employee; and (4) violations of State obstruction of justice, perjury, and extortion laws. Nominated by the State Prosecutor Selection and Disabilities Commission, the State Prosecutor is appointed to a six-year term by the Governor with the advice and consent of the Senate.

Background: Recent high-profile deaths involving law enforcement officers along with subsequent grand jury decisions not to indict the officers has drawn increased attention to police-involved fatalities. According to the National Conference of State Legislatures (NCSL), two states have laws requiring specific investigatory procedures for police-involved deaths. Connecticut requires the state Division of Criminal Justice to investigate any use of deadly physical force by law enforcement. As part of the investigation, the state’s chief attorney is empowered to appoint a special prosecutor. In Wisconsin, officer-involved deaths must be investigated by two investigators who are not employed by the same agency that employs the officer who committed the killing. The investigators must provide a report to the district attorney. If the district attorney determines there is no basis for prosecution, the investigators must release their report to the public. NCSL also reports that at least nine states in 2015 have measures under consideration which address the appointment of special prosecutors for, or provide independent investigation in, officer-involved deaths.

State Fiscal Effect: General fund expenditures increase by \$58,875 in fiscal 2016, which accounts for the bill’s October 1, 2015 effective date. Although reliable statistics regarding the number of cases for which investigations are required under the bill are not readily available, because this bill *requires* OSP to investigate additional cases, the Department of Legislative Services agrees with OSP’s indication that it cannot do so with existing resources. Instead, OSP needs to hire at least one additional investigator who can be specially trained to investigate fatalities resulting from acts or omissions of law enforcement officers. Accordingly, this estimate reflects the cost of hiring one investigator to conduct the required investigations. It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

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Salary and Fringe Benefits	\$54,151
Operating Expenses	<u>4,724</u>
Total FY 2016 State Expenditures	\$58,875

Future year expenditures reflect a full salary with annual increases and employee turnover as well as annual increases in ongoing operating expenses. To the extent that the bill also results in additional prosecutions by OSP, general fund expenditures may increase further. *For illustrative purposes only*, if an additional state prosecutor is required, general fund expenditures increase by a minimum of \$100,000 annually.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): State Prosecutor's Office, State's Attorneys' Association, National Conference of State Legislatures, Department of Legislative Services

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md/kdm

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