

Department of Legislative Services
Maryland General Assembly
2015 Session

FISCAL AND POLICY NOTE

Senate Bill 129 (Senator Gladden)
Judicial Proceedings

Criminal Law - Desecration of Human Remains - Penalty

The bill prohibits a person from willfully damaging or destroying human remains. Violators are guilty of a misdemeanor and subject to imprisonment for up to five years and/or a fine of up to \$5,000. The bill does not apply to a person acting in the course of medical, educational, or scientific study or a medical professional or licensed mortician acting within the course of their jobs.

Fiscal Summary

State Effect: Potential minimal increase in general fund revenues and expenditures due to the bill's penalty provision.

Local Effect: Potential minimal increase in local government revenues and expenditures due to the bill's penalty provision.

Small Business Effect: None.

Analysis

Current Law: There is no broad prohibition against damaging or destroying human remains.

A State's Attorney may authorize the removal of human remains to ascertain the cause of death or for reburial. If requesting permanent relocation of human remains, the requestor must publish specific information in a notice of the proposed relocation at least once in a newspaper of general circulation in Baltimore City or in the county where the burial site is located. Reinterment must be recorded in an inventory or appropriate record and will only be permitted in a permanent, perpetual care cemetery in the presence of qualified

reinterment specialists. There are similar, though less stringent, standards for reinterment of human remains after cremation. Violators are guilty of a misdemeanor and are subject to imprisonment for up to five years and/or a fine of up to \$10,000.

In general, a person may not knowingly sell, buy, or transport for profit unlawfully removed human remains or an associated funerary object. A person who violates this provision is guilty of a misdemeanor and is subject to imprisonment of up to one year and/or a fine of up to \$5,000. There are also statutory provisions relating to desecration of cemeteries and their contents. A violator who willfully destroys, mutilates, defaces, injures, or removes any tomb, monument, or gravestone, or other structure is guilty of a misdemeanor and subject to imprisonment for up to five years and/or a fine of up to \$10,000. If a person acts in an indecent or disorderly manner in a cemetery or destroys, damages, or removes cemetery foliage, the person is guilty of a misdemeanor and is subject to imprisonment for up to two years and/or a fine of up to \$500.

State Revenues: General fund revenues may increase minimally as a result of the bill's monetary penalty provision from cases heard in the District Court.

State Expenditures: General fund expenditures may increase minimally as a result of the bill's incarceration penalty due to more people being committed to State correctional facilities and increased payments to counties for reimbursement of inmate costs. The number of people convicted of this proposed crime is expected to be minimal.

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 \$770 per month. Excluding all health care, the average variable costs total \$200 per month.

Persons serving a sentence of one year or less in a jurisdiction other than Baltimore City are sentenced to local detention facilities. For persons sentenced to a term of between 12 and 18 months, the sentencing judge has the discretion to order that the sentence be served at a local facility or a State correctional facility. Prior to fiscal 2010, the State reimbursed counties for part of their incarceration costs, on a per diem basis, after a person had served 90 days. Currently, the State provides assistance to the counties for locally sentenced inmates and for inmates who are sentenced to and awaiting transfer to the State correctional system. A \$45 per diem grant is provided to each county for each day between 12 and 18 months that a sentenced inmate is confined in a local detention center. Counties also receive an additional \$45 per day grant for inmates who have been sentenced to the custody of the State but are confined in a local facility. The State does not pay for pretrial detention time in a local correctional facility. Persons sentenced in Baltimore City are

generally incarcerated in State correctional facilities. The Baltimore City Detention Center, a State-operated facility, is used primarily for pretrial detentions.

Local Revenues: Potential increase in revenues as a result of the bill's monetary penalty provision from cases heard in the circuit courts.

Local Expenditures: Potential minimal increase in expenditures as a result of the bill's incarceration penalty. Counties pay the full cost of incarceration for people in their facilities for the first 12 months of the sentence. A \$45 per diem State grant is provided to each county for each day between 12 and 18 months that a sentenced inmate is confined in a local detention center. Counties also receive an additional \$45 per day grant for inmates who have been sentenced to the custody of the State but are confined in a local facility. Per diem operating costs of local detention facilities have ranged from approximately \$60 to \$160 per inmate in recent years.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Board of Public Works, Department of Health and Mental Hygiene, Office of the Public Defender, Department of Public Safety and Correctional Services, State's Attorneys' Association, Department of Legislative Services

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