

Department of Legislative Services
Maryland General Assembly
2018 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 778
Judiciary

(Delegates Valentino-Smith and McComas)

Crimes - Solicitation to Commit Murder - Penalty

This bill repeals the statute of limitations for the prosecution of the crime of solicitation to commit murder in the first degree. The bill also establishes that a person who solicits another or conspires with another to commit murder in the first degree is guilty of a felony, punishable by imprisonment not exceeding life. The bill applies prospectively to any offense occurring on or after the bill's October 1, 2018 effective date.

Fiscal Summary

State Effect: Minimal increase in general fund expenditures beginning in FY 2022 if the bill's extension of the statute of limitations for solicitation to commit murder in the first degree increases the number of incarcerations in State facilities. Revenues are not affected.

Local Effect: The bill is not expected to materially affect local finances.

Small Business Effect: None.

Analysis

Current Law: Chapters 647 and 648 of 2017 increased the statutes of limitations for the prosecution of the crimes of solicitation to commit the following offenses from one year to three years: murder in the first degree; murder in the second degree; arson in the first degree; and arson in the second degree.

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.

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 most felonies.

Inchoate crimes are generally common law crimes. However, some inchoate crimes (*e.g.*, attempted murder, rape, and robbery) have been made statutory felonies. According to the Maryland Sentencing Guidelines Offense Table, the maximum penalty for conspiracy to commit first-degree murder and solicitation to commit first-degree murder is imprisonment for life.

Background: According to the Maryland Sentencing Guidelines Database, the Maryland State Commission on Criminal Sentencing Policy (MSCCSP) received sentencing information on 25 individuals sentenced for conspiracy to commit murder in the first degree, under common law, in the State’s circuit courts during fiscal 2017.

MSCCSP did not provide statistics for individuals sentenced for solicitation to commit murder in the first degree. However in 2017, MSCCSP advised that it did not receive sentencing information for anyone sentenced in the State’s circuit courts during fiscal 2016 for solicitation to commit murder in the first degree.

State Expenditures: General fund expenditures increase minimally, beginning in fiscal 2022, if the bill’s repeal of the statute of limitations for a prosecution of a person for solicitation to commit murder in the first degree increases the number of incarcerations for this offense.

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 \$3,800 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. The State provides assistance to the counties for locally sentenced inmates and for (1) inmates who are sentenced to and awaiting transfer to the State correctional system; (2) sentenced inmates confined in a local detention center between 12 and 18 months; and (3) inmates who have been sentenced to the custody of the State but are confined in or who receive reentry or other prerelease programming and services from 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 Pretrial Complex, a State-operated facility, is used primarily for pretrial detentions.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland State Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Office of the Public Defender; Maryland State's Attorneys' Association; Department of Public Safety and Correctional Services; Black's Law Dictionary; Department of Legislative Services

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