

Department of Legislative Services
Maryland General Assembly
2022 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 652
(Senator Cassilly)
Judicial Proceedings

Criminal Law - Murder of a Police Officer (Officer Keona Holley Public Safety Act)

This bill specifically prohibits a person from committing, attempting to commit, or conspiring to commit first-degree murder or second-degree murder if the person knows, suspects, or reasonably should know or suspect that the victim is a police officer. Violators are guilty of a felony, subject to specified terms of imprisonment, and ineligible for parole. The bill does not restrict the authority of the Governor to pardon or remit any part of a sentence under § 7-601 of the Correctional Services Article.

Fiscal Summary

State Effect: The bill is not anticipated to materially affect State operations or finances, as discussed below.

Local Effect: The bill is not anticipated to materially affect local operations or finances.

Small Business Effect: None.

Analysis

Bill Summary: The bill does not apply to a murder that is a murder in the first degree solely because it was committed in the perpetration of or an attempt to perpetrate specified crimes.

Violators of the bill's provisions are guilty of a felony and are subject to the following terms of imprisonment:

<u>Offense</u>	<u>Term of Imprisonment</u>
Murder – First Degree	Life
Attempted Murder – First Degree	Up to Life
Conspiracy to Commit Murder – First Degree	Up to Life
Murder – Second Degree	Up to 40 years
Attempted Murder – Second Degree	Up to 30 years
Conspiracy to Commit Murder – Second Degree	Up to 40 years

A conviction for committing, attempting, or conspiring to commit murder in the first degree or murder in the second degree and a conviction for a violation of the bill's provisions merge into one conviction for sentencing purposes.

Notwithstanding § 2-203 of the Criminal Law Article (notice and process for imposition of life imprisonment without the possibility of parole), an inmate sentenced for violating the bill's provisions is not eligible for parole consideration and may not be granted parole at any time during the individual's term of imprisonment.

Current Law:

Murder in the First and Second Degrees

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. A violator is guilty of a felony punishable by imprisonment for life, with or without the possibility of parole. A sentence of imprisonment for life without the possibility of parole may not be imposed unless specified statutory and procedural requirements are met.

An attempt to commit murder in the first degree is a felony punishable by imprisonment not exceeding life. Conspiracy is a common law misdemeanor in Maryland, subject to punishment not to exceed the (basic) maximum punishment for the substantive or target offense. Conspiracy to commit first-degree murder carries a maximum penalty of life imprisonment; the elimination of the possibility of parole is considered an enhancement of the basic maximum sentence for first-degree murder. *Johnson v. State*, 362 Md. 525 (2001). However, a person who solicits another person or conspires with another person to commit murder in the first degree is guilty of murder in the first degree if the death of another occurs as a result of the solicitation or conspiracy.

Second-degree murder is a murder that is not in the first degree. A person who commits second-degree murder is guilty of a felony and on conviction is subject to imprisonment for up to 40 years. An attempt to commit second-degree murder is a felony punishable by

imprisonment for up to 30 years. Pursuant to case law, Maryland generally does not recognize conspiracy to commit murder in the second degree.

Juveniles Sentenced as Adults

Chapter 61 of 2021 prohibits a court from imposing a sentence of life imprisonment without the possibility of parole or release on a minor convicted as an adult. It also entitles an individual to a hearing to reduce the duration of the individual's sentence if the individual was convicted as an adult for a crime committed as a minor, was sentenced before October 1, 2021, and has been imprisoned for the offense for at least 20 years. The Act also authorizes the court to impose less than the minimum sentence required under law for a minor convicted as an adult.

Mandatory Sentences for Crimes of Violence

Subsequent offenders sentenced for a crime of violence under § 14-101 of the Criminal Law Article are generally subject to mandatory sentences. For a second conviction of a crime of violence committed on or after October 1, 2018, a person must be sentenced to a mandatory minimum, nonsuspendable and nonparolable term of 10 years, if the person has been convicted on a prior occasion of a crime of violence, including a conviction for a crime committed before October 1, 2018, and served a term of confinement in a correctional facility for that conviction.

For a third conviction, a person must be sentenced to a mandatory minimum, nonsuspendable and nonparolable term of 25 years, if the person has been convicted on two prior separate occasions of a crime of violence, in which the second or succeeding crime is committed after there has been a charging document filed for the preceding occasion and for which the convictions do not arise from a single incident, and has served at least one term of confinement in a correctional facility as a result of a conviction of a crime of violence.

For a fourth conviction, a person who has served three separate terms of confinement in a correctional facility as a result of three separate convictions of any crime of violence must be sentenced to life imprisonment without the possibility of parole.

Diminution Credits

Generally, inmates sentenced to a State correctional facility are entitled to earn diminution of confinement credits to reduce the lengths of their incarcerations. Individuals sentenced for a "crime of violence" earn diminution credits at a lower rate than other inmates.

Parole and Mandatory Supervision

In general, a State inmate who is serving a sentence of six months or more is not eligible for parole until the inmate has served one-quarter of the inmate's sentence. A sentence for a violent crime does not become parole-eligible until the inmate has served one-half of the sentence.

Pursuant to Chapter 30 of the 2021 Special Session, an inmate sentenced to life imprisonment for a crime committed on or after October 1, 2021, is not eligible for parole until the inmate has served 20 years, or the equivalent of 20 years with allowances for diminution credits (prior to Chapter 30, a 15-year time period applied to this eligibility).

An inmate serving a term of incarceration that includes a mandatory minimum sentence that is not subject to parole by statute is not eligible for parole until the inmate has served that mandatory minimum sentence.

As previously noted, a person convicted for the fourth time of a crime of violence must be sentenced to life imprisonment without the possibility of parole. In general, a sentence for a third crime of violence or a second crime of violence committed on or after October 1, 2018, is not eligible for parole. However, with specified exceptions, beginning October 1, 2017, a person serving a mandatory sentence for a crime of violence may petition for, and be granted, parole if the person (1) is at least age 60 and (2) has served at least 15 years of the sentence imposed.

Generally, a person convicted of a violent crime committed on or after October 1, 2009, is not eligible for release on mandatory supervision until after the person becomes eligible for parole.

State Expenditures: Given the small number of defendants to which the bill is expected to apply, the circumstances under which a defendant is subject to the bill's provisions, and the existing statutory penalties for the offenses covered under the bill, the bill is not anticipated to materially affect State finances or operations. The bill's effect on general fund incarceration expenditures is not expected to be significant and does not occur until the out years.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

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

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Analysis by: Donavan A. Ham

Direct Inquiries to:
(410) 946-5510
(301) 970-5510