

**Department of Legislative Services**  
Maryland General Assembly  
2023 Session

**FISCAL AND POLICY NOTE**  
**First Reader**

House Bill 937  
Judiciary

(Delegate Arikan, *et al.*)

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**Criminal Law – Attempted Second–Degree Murder – Penalty**

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

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**Fiscal Summary**

**State Effect:** The bill is not expected to materially affect State finance and operations.

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

**Small Business Effect:** None.

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**Analysis**

**Current Law:**

*First-Degree Murder*

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.

### *Attempted First-degree Murder*

An attempt to commit murder in the first degree is a felony punishable by imprisonment not exceeding life.

### *Second-Degree Murder*

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.

The Maryland Court of Appeals (now the Supreme Court of Maryland) determined that second-degree murder is a killing accompanied by any of at least three alternative states of mind:

killing another person (other than by poison or lying in wait) with the intent to kill, but without the deliberation and premeditation required for first degree murder; killing another person with the intent to inflict such serious bodily harm that death would be the likely result; and what has become known as depraved heart murder – a killing resulting from ‘the deliberate perpetration of a knowingly dangerous act with reckless and wanton unconcern and indifference as to whether anyone is harmed or not.

*Burch v. State*, 346 Md. 253, 274 (1997) (quoting *Robinson v. State*, 307 Md. 738, 744 (1986), quoting from *DeBettencourt v. State*, 48 Md. App. 522, 530 (1981)).

### *Attempted Second-degree Murder*

An attempt to commit second-degree murder is a felony punishable by imprisonment for up to 30 years.

To prove attempted murder in the second degree, the State must show that the defendant had a specific intent to kill; an intent by the defendant to commit grievous bodily harm is insufficient. *See Wallace v. State*, 475 Md. 639, 657 (2021).

**Additional Comments:** The Maryland State Commission on Criminal Sentencing Policy advises that it received information for 50 individuals sentenced for 57 counts of attempted second-degree murder in the State’s circuit courts during fiscal 2022. The Department of Public Safety and Correctional Services advises that it received 16 individuals with one or more attempted second-degree murder offenses during fiscal 2022. The average length of sentence for this group was 12.88 years; the median sentence for this group was 10 years,

to which 10 inmates were sentenced. Only one inmate was given the maximum sentence of 30 years.

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### **Additional Information**

**Prior Introductions:** Similar legislation has not been introduced within the last three years.

**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; Maryland State's Attorneys' Association; Department of Public Safety and Correctional Services; Department of Legislative Services

**Fiscal Note History:** First Reader - February 26, 2023  
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