

Department of Legislative Services
Maryland General Assembly
2020 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 235

(Senator West)

Judicial Proceedings

Criminal Law - Attempt to Commit Second-Degree Murder - Penalty

This bill increases the maximum term of imprisonment, from 30 years to 40 years, for an attempt to commit second-degree murder under § 2-206 of the Criminal Law Article.

Fiscal Summary

State Effect: Minimal increase in general fund incarceration expenditures, beginning in the out years, as discussed below. Revenues are not affected.

Local Effect: The bill does not materially affect local finances.

Small Business Effect: None.

Analysis

Current Law: 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 other specified crimes.

A murder that is not in the first degree is considered second-degree murder, a felony punishable by imprisonment for up to 40 years. Chapter 515 of 2016 increased the maximum penalty for second-degree murder from 30 years to 40 years.

A person that is convicted of *an attempt* to commit second-degree murder is guilty of a felony and subject to imprisonment for up to 30 years.

Background: The Maryland State Commission on Criminal Sentencing Policy reports that during fiscal 2019, 42 individuals were sentenced for an attempt to commit second-degree murder under § 2-206 of the Criminal Law Article. The Department of Public Safety and Correctional Services advises that it conducted intake on 47 inmates sentenced for attempted second-degree murder; four of these inmates received the maximum 30-year sentence.

State Expenditures: General fund expenditures increase minimally, beginning in the out-years, due to longer periods of incarceration in State correctional facilities for individuals sentenced under the bill. Any increase in general fund expenditures does not occur until well into the future, as individuals who receive longer sentences under the bill conclude serving their sentences under existing statute and commence starting any additional period of incarceration imposed under the bill.

This estimate assumes that individuals who currently receive the maximum 30-year sentence are the defendants who may receive a longer sentence as a result of the bill. However, additional out-year expenditures may be incurred if the maximum penalty under the bill increases the average sentence of defendants sentenced for less than the maximum penalty under existing statute. Regardless, the magnitude of the bill's impact depends on the amount of additional time served under the bill, which depends on judicial sentencing practices.

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 \$3,700 per month. Excluding overhead, the average cost of housing a new State inmate (including health care costs) is about \$1,015 per month. Excluding all health care (which is a fixed cost under the current contract), the average variable costs total \$191 per month.

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

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