

Department of Legislative Services
Maryland General Assembly
2016 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 656

(Senator Salling, *et al.*)

Judicial Proceedings

Criminal Law - Death Penalty - Law Enforcement Officers and First Responders

This bill reinstates the death penalty for (1) the first-degree murder of a “law enforcement officer” or a “first responder” while the officer/responder was performing the officer/responder’s duties or (2) the first-degree murder of an off-duty law enforcement officer or an off-duty first responder arising out of the victim’s employment as a law enforcement officer or first responder. The bill also makes corresponding changes to statute to reflect reinstatement of the death penalty in these cases.

Fiscal Summary

State Effect: Minimal increase in general fund expenditures for litigation-related expenses for the Office of the Public Defender (OPD) and the Office of the Attorney General (OAG). The bill is not expected to materially affect the finances of the Judiciary or the Department of Public Safety and Correctional Services (DPSCS).

Local Effect: Given the relatively few number of cases to which the bill applies, the bill is not expected to materially impact State’s Attorneys’ offices or local government finances.

Small Business Effect: None.

Analysis

Bill Summary: The bill defines a “law enforcement officer” as a law enforcement officer, as defined by the Law Enforcement Officers’ Bill of Rights under § 3-101 of the Public Safety Article. Under that statutory provision, “law enforcement officer” means an individual who (1) in an official capacity is authorized by law to make arrests and (2) is a

member of one of a list of specified law enforcement agencies. Individuals who meet specified criteria are excluded from the definition of “law enforcement officer” under § 3-101 of the Public Safety Article.

“Law enforcement officer” includes (1) a law enforcement officer of a jurisdiction outside the State; (2) an officer serving in a probationary status; (3) a parole and probation officer; and (4) a law enforcement officer while privately employed as a security officer or special police officer under Title 3, Subtitle 3 of the Public Safety Article if the law enforcement officer is wearing the uniform worn while acting in an official capacity or is displaying prominently the officer’s official badge or other insignia of office.

The bill defines a “first responder” as a person engaged in providing emergency medical care or rescue services, including a firefighter, an emergency medical technician, or a rescue squad member.

Current Law: A person convicted of first-degree murder may be punished by imprisonment for life, with or without the possibility of parole. Chapter 156 of 2013 repealed the death penalty in Maryland and made corresponding changes to applicable statutory provisions.

State Fiscal Effect: Litigation-related expenditures for OPD and OAG increase minimally.

OPD did not provide information regarding the fiscal impact of the bill. However, the Department of Legislative Services advises that litigation-related expenditures for OPD increase minimally as result of the bill given (1) the relatively few number of cases to which the bill’s provisions apply and (2) the maintenance of OPD personnel before and after the death penalty repeal.

Following changes to the death penalty statute during the 2009 legislative session, OPD’s Capital Defense Division was disbanded as a separate program in fiscal 2010 and renamed the Aggravated Homicide Division (AHD). AHD is under the umbrella of OPD District Operations. At that time, AHD provided (1) direct trial representation to clients who faced the death penalty and (2) instruction and support to all OPD attorneys statewide who represented persons charged with capital offenses. AHD also provided training, consultation, and resources to provide litigation support in all areas of representation. Following the repeal of the death penalty in 2013, OPD did not eliminate personnel; AHD personnel were absorbed into other functions and continue to litigate high-level homicide cases.

OAG represents the State in appeals of capital cases. Given the relatively few cases to which the bill applies, general fund expenditures for OAG for litigation-related expenses increase minimally as a result of the bill.

The bill is not expected to materially affect the finances of the Judiciary or DPSCS. The Judiciary advises that the bill is not expected to significantly change the Judiciary's caseloads. DPSCS advises that the bill does not impact the department; DPSCS has historically advised that due to the reduced overhead at North Branch Correctional Institution (NBCI), the cost to maintain a death row inmate at NBCI is comparable to the cost of maintaining a maximum security inmate at NBCI.

Local Fiscal Effect: Given the relatively few number of cases to which the bill applies, the bill is not expected to materially impact State's Attorneys' offices or local government finances.

The State's Attorneys' Association advises that the bill has no effect on prosecutors. Carroll, Harford, and Montgomery counties all advise that the bill does not have a fiscal impact on their jurisdictions.

According to Queen Anne's County, the bill may have a fiscal impact on the county's sheriff and the Department of Correctional Services due to increased costs during a capital murder trial for housing and transporting a defendant, which could require the assignment of staff by the sheriff. However, the county does not have enough information to provide an estimate of the fiscal impact.

Additional Information

Prior Introductions: HB 235 of 2014, a similar bill, received an unfavorable report from the House Judiciary Committee.

Cross File: None.

Information Source(s): Carroll, Harford, Montgomery, Queen Anne's, and St. Mary's counties; Governor's Office; Maryland State Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); State's Attorneys' Association; Department of Health and Mental Hygiene; Department of Public Safety and Correctional Services; Department of Veterans Affairs; Department of Legislative Services

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