

Department of Legislative Services
Maryland General Assembly
2016 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 177

(Senator Brochin, *et al.*)

Judicial Proceedings

Criminal Law - Second-Degree Murder - Penalty

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

Fiscal Summary

State Effect: General fund expenditures increase, perhaps significantly, due to the bill's enhanced incarceration penalty. However, any impact from extended incarcerations will not be experienced until well into the future. Revenues are not affected.

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

Small Business Effect: None.

Analysis

Current Law: A murder that is not in the first degree under § 2-201 of the Criminal Law Article is considered second-degree murder, a felony punishable by imprisonment for up to 30 years.

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, including first-degree arson, burglary in the first through third degrees, kidnapping, carjacking, rape, or a first- or second-degree sexual offense.

Background: According to the Maryland State Sentencing Guidelines Database, there were 56 convictions for second-degree murder in the State's circuit courts during fiscal 2013. The sentences imposed for these convictions ranged from 5 to 30 years, with an average sentence of 23.6 years, excluding suspended time. In fiscal 2014, there were 65 convictions for second-degree murder in the State's circuit courts. The sentences imposed for those convictions ranged from 15 to 30 years, with an average sentence of 23 years, excluding suspended time.

State Expenditures: General fund expenditures increase, perhaps significantly, as a result of the bill's increase of an existing incarceration penalty due to people being committed to State correctional facilities for longer periods of time. However, the extent of the bill's fiscal impact depends on judicial sentencing behavior.

Using the average of the statistics from fiscal 2013 and 2014, the average sentence (excluding suspended time) for convictions for second-degree murder was 23.3 years. This represents 77.7% of the maximum incarceration penalty available under current statute.

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 \$3,300 per month. This bill alone, however, should not create the need for additional beds, personnel, or facilities. Excluding overhead, the average cost of housing a new State inmate (including variable health care costs) is about \$770 per month. Excluding all health care, the average variable costs total \$200 per month.

For illustrative purposes only, if judges sentence individuals convicted of second-degree murder to 77.7% of the 40-year maximum incarceration penalty under the bill, then the average sentence (excluding suspended time) imposed is 31.1 years. This represents an increase of 7.8 years in the average sentence.

The average variable cost (excluding health care costs) of housing an inmate in a State correctional facility is \$200 per month or \$2,400 per year. Applying this cost to the additional 7.8 years of incarceration mentioned above results in an additional expenditure of \$18,720 per individual convicted of second-degree murder under the bill.

Assuming that an average of 60 individuals are convicted of second-degree murder every year (the average of the number of convictions in fiscal 2013 and 2014), general fund expenditures may increase by as much as \$1.1 million for the entire additional 7.8 years of incarceration imposed on the annual cohort of individuals convicted of second-degree murder (\$144,000 per year for each cohort of inmates). This estimate does not account for additional applicable variables, such as diminution credits, parole, sentences for more serious offenses imposed on individuals convicted of second-degree murder, and individuals convicted of multiple counts of second-degree murder. Excluding those variables, the fiscal impact of the bill's incarceration penalty will not be felt until 23.3 years

from the bill's effective date (the average sentence for second-degree murder (excluding suspended time) under current statute based on fiscal 2013 and 2014 data).

However, as previously noted, the magnitude of the bill's fiscal impact depends on judicial sentencing behavior and the actual amount of additional incarceration time served by individuals convicted of second-degree murder under the bill's provisions.

Additional Information

Prior Introductions: SB 82 of 2015 received an unfavorable report the Senate Judicial Proceedings Committee. HB 168 of 2015 received an unfavorable report from the House Judiciary Committee. SB 136 of 2014 passed the Senate and received a hearing in the House Judiciary Committee. No further action was taken on the bill.

Cross File: None designated; however, SB 159 (Senator Cassilly – Judicial Proceedings) and HB 96 (Delegate B. Wilson – Judiciary) are identical.

Information Source(s): Maryland State Commission on Criminal Sentencing Policy, Judiciary (Administrative Office of the Courts), Office of the Public Defender, State's Attorneys' Association, Department of Legislative Services

Fiscal Note History: First Reader - January 21, 2016
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