

Department of Legislative Services
 Maryland General Assembly
 2021 Session

FISCAL AND POLICY NOTE
 First Reader

House Bill 1236 (Delegate Kipke)
 Judiciary

Office of the Attorney General - Violent Crimes Special Prosecution Unit for
 Baltimore City

This bill establishes a Violent Crimes Special Prosecution Unit for Baltimore City in the Office of the Attorney General. The unit’s purpose is to prosecute specified violent crimes in Baltimore City, in coordination with local, State, and federal law enforcement. The bill specifies positions and salaries for the unit and requires the Governor and the Chief Special Prosecutor to take specified actions to secure the cooperation and support of federal resources. Beginning in fiscal 2023, the Governor must include in the annual budget bill an appropriation of at least \$10.0 million for the unit. **The bill takes effect July 1, 2021, and terminates June 30, 2024.**

Fiscal Summary

State Effect: General fund expenditures increase by \$1.9 million in FY 2022, under the assumptions discussed below; future years reflect the bill’s mandated appropriation and the bill’s termination date. Revenues are not affected. **This bill establishes a mandated appropriation for FY 2023 and 2024.**

(\$ in millions)	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	1.9	10.0	10.0	0	0
Net Effect	(\$1.9)	(\$10.0)	(\$10.0)	\$0.0	\$0.0

Local Effect: Potential impact on local government expenditures, particularly in Baltimore City, and potential increase in Baltimore City revenues, as discussed below.

Small Business Effect: None.

Analysis

Bill Summary:

Positions

The unit must include (1) a Chief Special Prosecutor appointed by the Governor; (2) a deputy special prosecutor; (3) eight senior special prosecutors responsible for wiretaps and multidefendant criminal organization prosecutions; (4) eight senior special prosecutors responsible for prosecuting homicides and shootings; (5) eight special prosecutors responsible for prosecuting carjacking, burglary, and firearms cases, and assisting senior special prosecutors, as necessary; and (6) support staff, including law clerks and administrative assistants. The bill specifies annual salaries for these positions.

Appointments to the Unit

A State's Attorney for a county may nominate up to four assistant State's Attorneys for appointment as a prosecutor for the unit, and the Chief Special Prosecutor may appoint one or more private attorneys to serve as prosecutors in the unit. An assistant State's Attorney or private attorney appointed under the bill may not otherwise practice law during the period of appointment. Appropriate law enforcement agencies, including the Baltimore Police Department, must assign dedicated police officers to the unit.

Coordination with Federal Law Enforcement

The Chief Special Prosecutor must engage with specified federal agencies with the goal of arranging for the assignment of federal law enforcement agents to assist in the work of the unit. The Governor must make efforts to enter into an agreement with the U.S. Attorney for the District of Maryland for the appointment of one or more attorneys from the unit as special U.S. Attorneys for the purpose of pursuing federal charges related to the duties of the unit. The unit may allocate funds to the salary of an attorney appointed as special U.S. Attorney under the bill.

Mandated Appropriations

Beginning in fiscal 2023, the Governor must include in the annual budget bill an appropriation of at least \$10.0 million for the unit. Of the annual appropriation, the unit must allocate (1) \$1.0 million for incentives to expand the ground camera network in Baltimore City and (2) \$2.0 million for wiretaps, undercover drug investigations, and forensic analysts.

Miscellaneous Provisions

“Violent crime” means (1) armed robbery; (2) assault in the first degree; (3) carjacking; (4) armed carjacking; (5) criminal organization activity; (6) murder; or (7) attempt, conspiracy, or solicitation to commit any of the above specified crimes.

The Attorney General may adopt regulations necessary to carry out the bill.

Current Law: The Office of the Attorney General does not have general authority to prosecute crimes or issue subpoenas in the absence of specific statutory authority or an executive order. Prosecutorial and subpoena issuing authority have been granted by statute in certain instances, including enforcement and regulation under the Maryland Securities Act and the Maryland Consumer Protection Act.

State Expenditures: General fund expenditures increase by \$1,856,618 in fiscal 2022, under the assumptions discussed below. In fiscal 2023 and 2024, general fund expenditures increase by \$10.0 million annually, which reflects the bill’s mandated appropriation and the bill’s June 30, 2024 termination date.

Because the bill takes effect prior to the mandated funding, the Department of Legislative Services assumes that costs are incurred in fiscal 2022 for the positions mandated for the unit. For purposes of this estimate, it is assumed that the Chief Special Prosecutor is appointed by October 1, 2021 in order to allow the individual time to hire staff/appoint special prosecutors and begin engaging in discussions with specified federal agencies to assist in the unit’s work. It is assumed that 1 administrative assistant also begins October 1, 2021, and that the remaining positions mandated by the bill (1 deputy special prosecutor, 16 senior special prosecutors, 8 special prosecutors), and an assumed 6 additional support staff (3 law clerks and 3 administrative assistants) have a start date of March 1, 2022. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Positions	33.0
Salaries	\$1,349,400
Fringe Benefits	272,730
Operating Expenses	<u>234,488</u>
Total FY 2022 State Expenditures	\$1,856,618

Future year expenditures reflect the bill’s mandated appropriation of \$10.0 million annually in fiscal 2023 and 2024, which is sufficient to cover the annualized salaries and ongoing operating expenses of the staff hired/appointed in fiscal 2022, as well as any additional staff that may be necessary, and the \$3.0 million annually that the unit is required to allocate in fiscal 2023 and 2024 (\$1.0 million annually for incentives to expand the

ground camera network in Baltimore City and \$2.0 million annually for wiretaps, undercover drug investigations, and forensic analysts).

Any increase in workload resulting from the unit's prosecutions is not anticipated to materially affect the finances or operations of the Judiciary or the Office of the Public Defender.

This analysis assumes that the bill's mandated appropriation does not apply for fiscal 2025, even though the bill is in effect when the Governor submits the proposed fiscal 2025 budget to the General Assembly for consideration during the 2024 session.

Local Fiscal Effect: Local government expenditures, particularly in Baltimore City, are likely impacted by the new State unit established by the bill. For example, expenditures for the Baltimore City State's Attorneys' Office (SAO) may decrease minimally/temporarily if the office nominates four assistant State's Attorneys to serve in the new unit (the maximum number allowed by the bill) and the attorneys' salaries are paid by the State instead of Baltimore City. The Baltimore City SAO may also benefit from operational efficiencies if the new unit handles the prosecution of the violent crimes specified in the bill, freeing up resources of the Baltimore City SAO to focus on other matters. The bill also requires appropriate law enforcement agencies, including the Baltimore Police Department, to assign dedicated police officers to the unit. Baltimore City expenditures *may* increase if *additional* officers are needed to meet this requirement. However, the extent to which the efforts of the new unit will supplant and/or supplement existing efforts in Baltimore City during the period specified in the bill cannot be reliably predicted beforehand and depends on many factors, such as the extent to which current Baltimore City employees are appointed/assigned to the new temporary unit and how the prosecution of violent crimes is allocated between the new temporary unit and the Baltimore City SAO.

Salary expenditures in other jurisdictions may decrease minimally to the extent that a State's Attorney nominates assistant State's Attorneys to the unit for temporary assignment and those attorneys' salaries are paid by the State instead of the local jurisdiction.

Depending on how the unit allocates funds for incentives to expand the ground camera network in Baltimore City and for wiretaps, undercover drug investigations, and forensic analysts, revenues for the city (and associated expenditures) may increase.

Any increase in workload resulting from the unit's prosecutions is not anticipated to materially affect the finances or operations of the circuit courts.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Governor's Office; Maryland State Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Office of the Public Defender; Department of Budget and Management; Department of State Police; Maryland Department of Transportation; Department of Legislative Services

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