



RACIAL EQUITY IMPACT NOTE

DEPARTMENT OF LEGISLATIVE SERVICES
MARYLAND ▪ GENERAL ▪ ASSEMBLY

2024 Session
HB0087

Criminal Law - Death Penalty

Bill Summary

This bill (1) reinstates the death penalty for first-degree murder cases meeting specified criteria; (2) makes corresponding changes in State law to reflect reinstatement of the death penalty; and (3) establishes procedural requirements in these cases.

Racial Equity Impact Statement

Historical data reviewed by the Maryland Commission on Capital Punishment (MCCP) in 2008 found evidence of racial disparities in capital punishment cases that involved white victims and Black defendants. MCCP also found evidence of juror bias involving race. While no intentional discrimination was confirmed, MCCP recommended abolishing the death penalty due to the racial disparities found in these cases. The death penalty in Maryland was later abolished in 2013. Recent homicide arrest data confirms that Black offenders are the largest group of arrestees and 80% of homicide victims are Black individuals. There is no available data to determine how many homicide cases and defendants would be affected by the bill, but the impacts would be substantial regardless of the total number of individuals affected.

Analysis

Under existing law, the maximum penalty for first-degree murder is imprisonment for life, with or without the possibility of parole. The bill would reinstate the death penalty for certain first-degree murder cases where specified aggravating circumstances, balanced against certain mitigating circumstances, are found by a jury to warrant the imposition of a sentence of death on the defendant. As of 2023, 21 states have active death penalty statutes, 23 states and the District of Columbia do not impose the death penalty, and 6 states have placed a hold on carrying out the death penalty due to executive action.

Chapter 156 of 2013 abolished the death penalty in Maryland. Chapter 156 was enacted in part due to the findings of MCCP, which was tasked with studying all aspects of the death penalty in Maryland. MCCP held several public hearings and multiple sub-groups studied the sentencing and implementation of the death penalty in the State, with MCCP ultimately concluding in its December 2008 report to the Governor and General Assembly that the death penalty should be abolished.

One of MCCP's significant findings in their analysis of the cases eligible for the death penalty in Maryland between 1979 and 1999 was a "troublesome factor [that] race play[ed] a dominant role in the administration of the death penalty in Maryland." Although the commission did not find purposeful discrimination in the application of the death penalty, MCCP reviewed research showing disparate outcomes for Black defendants accused of killing a white victim and/or who had juries consisting of five or more white jurors.

According to MCCP, data showed that cases in which a Black defendant allegedly killed a white victim were more likely to be advanced for capital punishment at every stage than cases of similar seriousness with other race combinations for the victim and offender. Specifically, of the cases that resulted in a death sentence in Maryland during the time period, 70% of those cases featured a Black offender and a white victim. However, this combination constituted only 23% of all death penalty-eligible cases in Maryland. Additionally, research was presented that the racial composition of a jury was strongly related to the outcome of death penalty cases. The research showed that the chances of receiving a death sentence more than doubled when a jury had five or more white jurors.

MCCP also considered and heard other evidence regarding jurisdictional and socioeconomic disparities, implementation costs, and the reliability of DNA evidence. The commission ultimately concluded that due to all of the manifestations of racial bias with regard to capital punishment cases, the biases could not be rectified through procedural guidelines or changes to the administration of capital sentencing. The MCCP findings of racial bias in death penalty proceedings were echoed in reports by two previous commissions that reviewed the issue during the 1990s.

Impacts of the Bill

The Department of State Police (DSP) crime reporting program is in the process of moving from its current Summary Reporting System (SRS) to the Federal Bureau of Investigation's (FBI) National Incident Based Reporting System (NIBRS). The move to NIBRS is designed to improve the quality and quantity of crime data collected by law enforcement agencies. As of November 15, 2023, DSP reports that of the 157 reporting law enforcement agencies in Maryland, 99 have completed the transition to NIBRS. They include all primary agencies (county police/sheriff) in 20 counties and Baltimore City, including all counties with populations over 100,000. There are 30 agencies still in various stages of the NIBRS transition. The data for the remaining 28 reporting agencies is included among the other 99 reporting agencies as they represent multiple locations.

DSP data from 2022 indicates that Black defendants were overrepresented in homicide arrests and Black individuals comprised a large majority of homicide victims in the State. SRS reporting agencies reported that 92% of arrestees for homicide and 80% of homicide victims were Black

individuals. Similarly, NIBRS reporting agencies reported that 78% of arrestees for homicide and 80% of homicide victims were Black individuals. The data does not distinguish between different degrees of homicide.

There is no data available to determine (1) what portion of homicides would be death penalty-eligible under the bill; (2) what percentage of homicides involve Black offenders and white victims; and (3) the racial composition of juries for those convicted of homicide.

Conclusion

While there is no data available to measure the exact impacts of the bill, there is reason to believe that the bill would have a meaningful impact on Black offenders as they comprise the large majority of homicide arrestees. The magnitude of the impacts may not be large in a quantitative sense due to the relatively small number of homicide cases that would likely be eligible due to the bill's procedural requirements. Despite this fact, the overall impacts would be particularly significant considering that defendants would be subject to the death penalty.

Information Sources: Department of State Police; Department of Legislative Services

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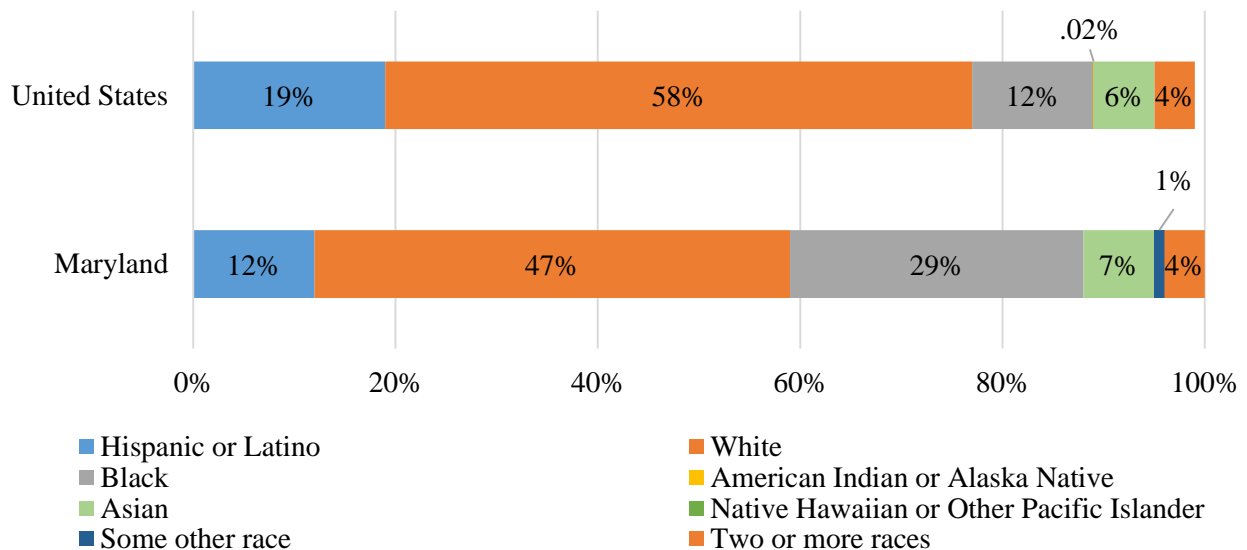
Appendix – Maryland Demographics

Race and Ethnicity of the Maryland Population

Maryland’s 2020 census population is 6,177,244, a 7% increase from the 2010 census count and approximately 2% higher than the 2019 census population estimates. In addition to an increase in population, Maryland’s racial demographics have become more diverse. Maryland is now a state in which racial minorities make up a majority of its total population. Notable changes relevant to this shift are the increase in groups who identify as “other” and “multiracial” (*i.e.*, two or more racial identities), which total 5% of the State’s population. Additionally, the change in demographics is due to the decrease in the number of individuals who only report “white” as their racial group. Despite this decrease, non-Hispanic whites remain the largest race demographic group in the State at 47% of the State’s population.

Compared to the U.S. population overall, Maryland’s population of individuals who identify as a single race is more diverse. Maryland is ranked as the fourth most diverse state by the U.S. Census Bureau’s [Diversity Index](#). As shown in **Exhibit 1**, in Maryland, 47% identify as white alone compared to 58% of the national population. Similarly, 51% of the population identify as non-white or multi-racial compared to 38% of the national population. In both the State and national populations, the largest shares of the non-white population are individuals who are Black, with 29% of the State population identifying only as Black and another 2.5% identifying as Black in combination with some other race. Maryland’s Asian population is 7%, which is slightly higher than the Asian share of the national population of 6%. The State’s overall population by ethnicity, however, is slightly less diverse than the U.S. population; 12% of the State’s population identified as Hispanic or Latino compared to 19% of the U.S. population.

Exhibit 1
U.S. and Maryland Population by Race and Ethnicity
2020



Source: U.S. Census Bureau, 2020 Census Redistricting Data (Public Law 94-171), Table ID P2, HISPANIC OR LATINO, AND NOT HISPANIC OR LATINO BY RACE.