

Department of Legislative Services
Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE

House Bill 477

(Delegate Simmons)

Judiciary

Firearms - Conviction for Crime of Violence - Probation Before Judgment

This bill defines the terms “convicted of a crime of violence” and “convicted of a disqualifying crime” to include the imposition of probation before judgment for a crime of violence as it applies to certain provisions of law that limit a person’s right to possess a firearm or obtain a regulated firearm dealer’s license based on prior convictions. The bill specifically does not include the imposition of probation before judgment for assault in the second degree in either definition.

Fiscal Summary

State Effect: General fund expenditures increase by \$10,000 in FY 2014 only for the Department of State Police to revise the Application and Affidavit to Purchase a Regulated Firearm. Revenues are not affected.

(in dollars)	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	10,000	0	0	0	0
Net Effect	(\$10,000)	\$0	\$0	\$0	\$0

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law:

Probation Before Judgment

A court may place a defendant on probation before judgment (PBJ) when (1) a defendant pleads guilty or *nolo contendere* or is found guilty of a crime; (2) the court finds that PBJ would be in the best interest of the defendant and the public welfare; and (3) the defendant gives written consent to PBJ after determination of guilt or acceptance of a *nolo contendere* plea.

PBJ may include (1) custodial confinement or imprisonment; (2) payment of a fine or restitution; (3) participation in a rehabilitation program or other specified programs; or (4) participation in an alcohol or drug treatment or education program approved by the Department of Health and Mental Hygiene.

A defendant who agrees to PBJ waives the right to appeal at any time from the judgment of guilt. When a defendant fulfills the conditions of PBJ, the court must discharge the defendant from probation, which is the final disposition of the matter. A defendant discharged from PBJ is not considered to have been convicted of a crime.

Disqualifying Crimes, Crimes of Violence, and Regulated Firearms

A “disqualifying crime” is defined as a “crime of violence,” a felony, or a misdemeanor that carries a statutory penalty of more than two years. “Crime of violence” is defined to include 17 specific crimes, including abduction, arson, kidnapping, manslaughter, murder, rape, first or second degree sexual offense, and assault with intent to commit any of the listed crimes.

A person must lawfully possess a dealer’s license issued by the Secretary of State Police before the person engages in the business of selling, renting, or transferring regulated firearms. In addition to other required information, an application for a dealer’s license must contain a statement by the applicant that the applicant has never been convicted of a “disqualifying crime.” The Secretary is required to revoke a dealer’s license if the licensee is later convicted of a “disqualifying crime.”

Among other restrictions, a person may not possess a regulated firearm in the State if the person was convicted of a “disqualifying crime” or, if under age 30 at the time of possession, has been adjudicated delinquent by a juvenile court for an act that would be a disqualifying crime if committed by an adult. A dealer also may not sell, rent, or transfer a regulated firearm to a person the dealer knows or has reasonable cause to believe has

been convicted of a “disqualifying crime” or, if under age 30 at the time of the transaction, has been adjudicated delinquent by a juvenile court for an act that would be a disqualifying crime if committed by an adult. An application to purchase, rent, or transfer a regulated firearm must also contain a statement that the applicant has never been convicted of a “disqualifying crime” or, if under age 30 at the time of application, has not been adjudicated delinquent by a juvenile court for an act that would be a disqualifying crime if committed by an adult.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts), Department of State Police, Department of Public Safety and Correctional Services, Department of Legislative Services

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