

Department of Legislative Services
Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE

Senate Bill 228

(Senator Frosh, *et al.*)

Judicial Proceedings

Judiciary

**Criminal Law - Use of Handgun in Crime of Violence or Felony - Statute of
Limitations**

This bill establishes that a person who violates the State's prohibition on using a firearm in the commission of a crime of violence is not subject to the general one-year statute of limitations for prosecution of a misdemeanor. As a result, the State may initiate a prosecution for this offense at any time.

Fiscal Summary

State Effect: The bill is not expected to materially affect State finances.

Local Effect: The bill is not expected to materially affect local finances.

Small Business Effect: None.

Analysis

Current Law: In general, there is a one-year statute of limitations for the prosecution of a misdemeanor. However, State law does contain exceptions for several specified offenses.

A person may not use a firearm in the commission of a crime of violence or any felony, whether the firearm is operable or inoperable at the time of the crime. Violators are guilty of a misdemeanor and, in addition to any other penalty imposed for the crime of violence or felony, are subject to imprisonment for up to 20 years with a mandatory minimum sentence of 5 years, which is generally nonparolable. Sentences for subsequent

violations must be served consecutively with any other sentence imposed for the crime of violence or felony.

“Crime of violence” means (1) abduction; (2) arson in the first degree; (3) assault in the first or second degree; (4) burglary in the first, second, or third degree; (5) carjacking and armed carjacking; (6) escape in the first degree; (7) kidnapping; (8) voluntary manslaughter; (9) maiming; (10) mayhem; (11) murder in the first or second degree; (12) rape in the first or second degree; (13) robbery; (14) robbery with a dangerous weapon; (15) sexual offense in the first, second, or third degree; (16) an attempt to commit any of these crimes; or (17) assault with the intent to commit any of these crimes or a crime punishable by imprisonment for more than one year.

“Firearm” means (1) a weapon that expels, is designed to expel, or may readily be converted to expel a projectile by the action of an explosive or (2) the frame or receiver of such a weapon. “Firearm” includes an antique firearm, handgun, rifle, shotgun, short-barreled rifle, short-barreled shotgun, starter gun, or any other firearm, whether loaded or unloaded.

Background: The Judiciary advises that there were 2,042 violations filed for use of a firearm in the commission of a crime of violence or felony in the District Court during fiscal 2011. According to the Maryland State Commission on Criminal Sentencing Policy, there were 372 convictions for this crime in the State’s circuit courts during fiscal 2012.

Additional Information

Prior Introductions: None.

Cross File: HB 575 (Delegates Clippinger and Valderrama) - Judiciary.

Information Source(s): Baltimore, Charles, Frederick, and Montgomery counties; Maryland State Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Office of the Public Defender; Department of Public Safety and Correctional Services; State’s Attorneys’ Association; Department of Legislative Services

Fiscal Note History: First Reader - February 4, 2013
ncs/kdm

Analysis by: Amy A. Devadas

Direct Inquiries to:
(410) 946-5510
(301) 970-5510