

Department of Legislative Services
Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE
Revised

House Bill 286
Judiciary

(Delegate Valentino-Smith, *et al.*)

Judicial Proceedings

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

This bill establishes that the statute of limitations for the prosecution of using a firearm in the commission of a crime of violence or felony is the same as the statute of limitations for the underlying crime.

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, a felony may be prosecuted at any time, and the criminal prosecution of a misdemeanor must be instituted within one year after the commission of the offense. 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 2,038 violations filed for use of a firearm in the commission of a crime of violence or felony in the District Court during fiscal 2013. According to the Maryland State Commission on Criminal Sentencing Policy, there were 318 convictions for this crime in the State’s circuit courts during fiscal 2013.

Additional Information

Prior Introductions: SB 228 of 2013 passed the Senate and received a hearing in the House Judiciary Committee, but no further action was taken. Its cross file, HB 575, received a hearing in the House Judiciary Committee, but no further action was taken.

Cross File: None.

Information Source(s): Baltimore, Carroll, Montgomery, Queen Anne’s, and St. Mary’s 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; Department of Legislative Services

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