

Department of Legislative Services
 Maryland General Assembly
 2015 Session

FISCAL AND POLICY NOTE

House Bill 857
 Judiciary

(Delegates Dumais and Rosenberg)

Criminal Procedure - Firearms - Transfer

This bill requires a court to inform a person convicted of a “crime of violence” that the person is prohibited from possessing firearms. If a person is convicted of a crime of violence that is a “domestically related crime” punishable as a misdemeanor, the court must order the person to transfer all firearms owned by the person or in the person’s possession. Such a transfer must be made within 24 hours of the conviction to a State or local law enforcement official or to a federally licensed firearms dealer. The bill establishes procedures and requirements related to transfers and the disposal of transferred firearms.

Fiscal Summary

State Effect: General fund expenditures increase by \$27,700 in FY 2016 only for the Administrative Office of the Courts (AOC) to reprogram its computer system. However, the bill is not expected to have a significant operational or fiscal impact on the Department of State Police (DSP), other State law enforcement agencies, or the State’s trial courts.

| (in dollars) | FY 2016 | FY 2017 | FY 2018 | FY 2019 | FY 2020 |
|----------------|------------|---------|---------|---------|---------|
| Revenues | \$0 | \$0 | \$0 | \$0 | \$0 |
| GF Expenditure | 27,700 | 0 | 0 | 0 | 0 |
| Net Effect | (\$27,700) | \$0 | \$0 | \$0 | \$0 |

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

Local Effect: Minimal. It is assumed that local law enforcement agencies can handle the bill’s requirements with existing resources.

Small Business Effect: Potential meaningful. Firearms dealers in the State must develop procedures and mechanisms for accepting transferred firearms.

Analysis

Bill Summary: A law enforcement official or firearms dealer accepting a transferred firearm must issue a proof of transfer to the person transferring the firearm. A proof of transfer must include (1) the name of the person transferring the firearm; (2) the date the firearm was transferred; and (3) the serial number, make, and model of the firearm.

Within 48 hours of being ordered to transfer a firearm, a person must:

- file a copy of proof of transfer with the court and attest that all firearms owned by the person or in the person's possession have been transferred and that the person does not own or possess any other firearms; or
- attest to the court that the person does not own or possess a firearm and did not own or possess a firearm at the time of the order.

If a person transfers a firearm to a law enforcement agency pursuant to the bill, the agency may dispose of the firearm. However, a law enforcement agency *may not* dispose of a firearm unless the agency (1) notifies the person who transferred the firearm of the disposal and (2) remits to the person who transferred the firearm any funds received from the disposal, less the cost associated with taking possession, storing, and disposing of the firearm.

Current Law: A "crime of violence" (under § 5-501 of the Public Safety Article) means (1) abduction; (2) first-degree arson; (3) first- or second-degree assault; (4) first- second- or third-degree burglary; (5) carjacking and armed carjacking; (6) first-degree escape; (7) kidnapping; (8) voluntary manslaughter; (9) maiming; (10) mayhem; (11) first- or second-degree murder; (12) first- or second-degree rape; (13) robbery; (14) robbery with a dangerous weapon; (15) first- second- or third-degree sexual offense; (16) an attempt to commit offenses 1 through 15; or (17) assault with the intent to commit offenses 1 through 15 or a crime punishable by imprisonment for more than one year.

A "domestically related crime" (under § 6-233 of the Criminal Procedure Article) is a crime committed by a defendant against a victim who is a "person eligible for relief" (under § 4-501 of the Family Law Article), or is a person who had a sexual relationship with the defendant within 12 months before the commission of the crime. Under the applicable provisions of the Family Law Article, a "person eligible for relief" includes

(1) the current or former spouse of the respondent; (2) a cohabitant of the respondent; (3) a person related to the respondent by blood, marriage, or adoption; (4) a parent, stepparent, child, or stepchild of the respondent or the person eligible for relief who resides or resided with the respondent or person eligible for relief for at least 90 days within one year before the filing of the petition; (5) a vulnerable adult; or (6) an individual who has a child in common with the respondent.

State Expenditures: AOC advises that the bill requires the Judiciary to create a new form and notice for an order for the transfer of firearms. In addition, AOC advises that the bill requires approximately 371 computer programming hours at a cost of \$27,696 in fiscal 2016. Under the bill, the courts are responsible for tracking compliance and the filings of proof of transfer and related affidavits.

AOC further advises that the processes required under the bill could lead to an increase in bench warrants and additional clerical and court time for case adjudication. While the extent of any such increase cannot be readily predicted, the bill is not expected to result in a significant fiscal or operational impact on the trial courts.

If other legislation is passed requiring computer reprogramming changes, economies of scale could be realized, thereby reducing the costs associated with this bill and other legislation affecting AOC.

DSP advises that the bill's requirements can be handled with existing budgeted resources. It is assumed that any other State law enforcement agency can also implement the bill with existing budgeted resources.

Additional Information

Prior Introductions: None.

Cross File: SB 530 (Senator Raskin, *et al.*) - Judicial Proceedings.

Information Source(s): Harford and Montgomery counties, Judiciary (Administrative Office of the Courts), Department of State Police, Department of Legislative Services

Fiscal Note History: First Reader - March 6, 2015
md/lgc

Analysis by: Guy G. Cherry

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