

Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 50
Judiciary

(Delegate Conaway)

Public Safety - Use of Electronic Control Devices - Reports

This bill restores the data collection and reporting program related to the use of an “electronic control device” (ECD), which is defined as a portable device designed as a weapon capable of injuring, immobilizing, or inflicting pain on an individual by the discharge of electrical current. Each law enforcement agency in the State that issues ECDs to its law enforcement officers must collect specified data on each use of an ECD and meet specified reporting requirements.

The bill terminates September 30, 2019.

Fiscal Summary

State Effect: Although the bill may result in operational impacts, it is assumed that affected State agencies can implement the bill with existing budgeted resources.

Local Effect: Minimal. It is assumed that the bill’s reporting requirements can generally be handled by affected local law enforcement agencies using existing resources.

Small Business Effect: None.

Analysis

Bill Summary: The bill temporarily reinstates the provisions of Chapters 78 and 79 of 2011 that abrogated in 2016.

The bill requires a law enforcement agency that issues ECDs to its law enforcement officers to report specified information relating to the use of ECDs annually by March 31 to the Governor’s Office of Crime Control and Prevention (GOCCP) and specified local entities

using a format developed by the Maryland Police Training and Standards Commission (MPTSC), in consultation with GOCCP, the Maryland Chiefs of Police Association, and the Maryland Sheriffs' Association. GOCCP must analyze and summarize the reports and submit a report of the analyses and summaries to the Governor, the General Assembly, and each law enforcement agency before September 1 of each year. GOCCP is required to report any noncompliance with reporting requirements to MPTSC. The bill requires MPTSC to contact a noncompliant law enforcement agency to request compliance. If compliance requirements are not met within 30 days of contact by MPTSC, GOCCP and MPTSC must jointly report the noncompliance to the Governor and the Legislative Policy Committee.

Current Law: A person is prohibited from possessing or using an ECD unless the person is at least age 18 and has never been convicted of a crime of violence or a specified drug crime.

An ECD is prohibited from being sold and activated unless (1) an instructional manual or audio or audiovisual instructions are provided to the purchaser; (2) the manufacturer maintains a record of the original owner of the device; and (3) the manufacturer or seller has obtained a State and federal criminal history records check of the original owner.

The illegal possession or use of an ECD is a misdemeanor and a violator is subject to maximum penalties of two months imprisonment and/or a \$500 fine. If the violation occurs while the person is committing a separate felony, the violator is guilty of a felony and subject to maximum penalties of three years imprisonment and/or a \$5,000 fine.

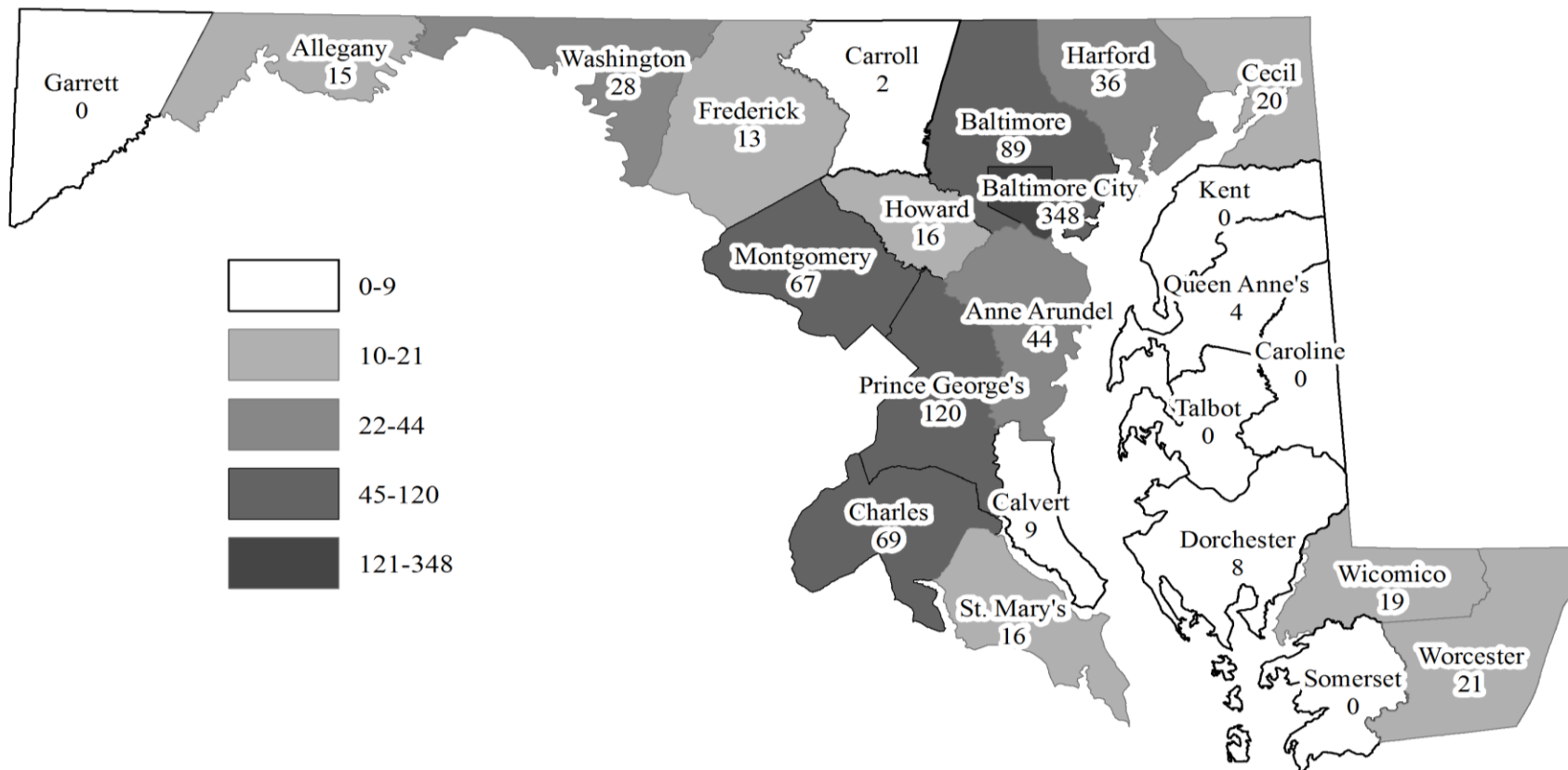
A local government is not prohibited from adopting a restriction or requirement concerning the possession of an ECD that is more stringent than what is specified under State law.

MPTSC and the Correctional Training Commission within the Department of Public Safety and Correctional Services are required to add entrance-level and annual in-service training in the proper use of ECDs to curricula, for police and correctional officers who are issued an ECD by a law enforcement agency, consistent with established law enforcement standards and federal and State constitutional provisions.

Background: In August 2016, GOCCP released the fourth and final [report](#) on ECD use as required under Chapters 78 and 79 of 2011. Major findings from the report include that, in 2015, more than 95% of individuals receiving an ECD discharge were African American or Caucasian (73% and 22.7%, respectively). ECD discharges were most likely to occur in densely populated areas. Almost half of all discharges occurred between 4:00 p.m. and 12:00 a.m. The majority of discharges occurred during law enforcement's initial response to a criminal incident and when a person failed to comply with law enforcement officer orders. Two individuals died after receiving an ECD discharge in 2015. **Exhibit 1** displays

the overall breakdown of ECD discharges aimed at human targets by county in 2015. **Exhibit 2** displays the breakdown of ECD discharges by type of incident and race/ethnicity. **Exhibit 3** displays the breakdown of threat of a weapon during ECD discharges by race/ethnicity.

Exhibit 1
Law Enforcement Electronic Control Device Discharges Aimed at Human Targets (2015)



Source: Governor's Office of Crime Control and Prevention

Exhibit 2
Number of ECD Discharges by Type of Incident and Race/Ethnicity

Discharge Type	Asian	African American	Hispanic	Caucasian	Other/Unknown/ Missing	Total
Criminal	5	568	20	154	5	752
Percent	100.0%	82.4%	80.0%	72.0%	45.5%	79.7%
Noncriminal	0	97	4	51	6	158
Percent	0.0%	14.1%	16.0%	23.8%	54.5%	16.7%
Traffic	0	24	1	9	0	34
Percent	0.0%	3.5%	4.0%	4.2%	0.0%	3.6%
Total	5	689	25	214	11	944
Percent	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

ECD = electronic control device

Source: Governor's Office of Crime Control and Prevention

Exhibit 3
Threat of a Weapon during ECD Discharges by Race/Ethnicity

Threat of a Weapon During ECD Discharge	Asian	African American	Hispanic	Caucasian	Other/Unknown/ Missing	Total
Yes	2	71	4	24	0	101
Percent	40.0%	12.5%	20.0%	14.8%	0.0%	13.2%
No	3	497	16	138	9	663
Percent	60.0%	87.5%	80.0%	85.2%	100.0%	86.8%
Total	5	568	20	162	9	764
Percent	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

ECD = electronic control device

Source: Governor's Office of Crime Control and Prevention

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Montgomery County; Governor's Office of Crime Control and Prevention; Department of Public Safety and Correctional Services; University System of
HB 50/ Page 5

Maryland; Department of General Services; Department of Natural Resources; Department of State Police; Maryland Department of Transportation; Department of Legislative Services

Fiscal Note History: First Reader - January 25, 2017
mm/lgc

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