

Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 159
Appropriations

(Delegate B. Barnes, *et al.*)

Judicial Proceedings

Weapon-Free Higher Education Zones

This bill prohibits, with specified exceptions, a person from carrying or possessing a firearm on the property of a public institution of higher education in the State. The bill applies existing criminal penalties to violations. A public institution of higher education must post signs to provide notice of the bill's prohibition in prominent locations on the property of the institution, including at entrances to and exits from the property. The bill also (1) requires the Board of Regents for the University System of Maryland to incorporate into their bylaws, policies, and procedures the current weapons practice on their campuses and (2) alters provisions relating to an exception from the prohibition on carrying or possessing specified weapons on specified property for an off-duty or retired law enforcement officer.

Fiscal Summary

State Effect: Minimal increase in higher education expenditures for public institutions of higher education to post signs. Minimal increase in general fund revenues and expenditures due to the bill's penalty provisions.

Local Effect: Minimal increase in local expenditures for community colleges to post signs. Minimal increase in local revenues and expenditures due to the bill's penalty provisions.

Small Business Effect: None.

Analysis

Bill Summary: A violator is guilty of a misdemeanor and subject to maximum penalties of imprisonment for three years and/or a \$1,000 fine. A person who is convicted of carrying or possessing a handgun in violation of this prohibition must be sentenced under the penalty provisions applicable to handgun violations.

The bill's prohibition does not apply to a law enforcement officer, a retired law enforcement officer in good standing, a guard hired by the institution, a person who is required or authorized by policies of the institution to possess a firearm, a person engaged in organized shooting activity for educational purposes, or a person engaged in other specified historical activities for educational purposes with a written invitation from the president of the institution. In addition, the prohibition does not apply to property used by a public institution of higher education that is owned by an individual or private entity, unless the property is used for student housing.

The bill also alters provisions relating to the exception from the prohibition on carrying or possessing specified weapons on specified property for an off-duty or retired law enforcement officer. First, the bill alters the requirement that an officer or retired officer must display the officer's or retired officer's badge or credential and instead requires that the badge or credential is in the officer or retired officer's possession. Second, the bill repeals the requirement that the person must be a parent, guardian, or visitor of a student attending the school.

Current Law: A person may not carry or possess a firearm, knife, or deadly weapon of any kind on public school property. A violator is guilty of a misdemeanor and subject to maximum penalties of imprisonment for three years and/or a fine of \$1,000. A person who is convicted of carrying or possessing a handgun in violation of this prohibition must be sentenced under the misdemeanor penalty provisions applicable to illegally wearing, carrying, or transporting a handgun.

This prohibition does not apply to:

- a law enforcement officer in the regular course of the officer's duty;
- an off-duty law enforcement officer or a person who has retired as a law enforcement officer in good standing from a law enforcement agency of the United States, the State, or a local unit in the State who is a parent, guardian, or visitor of a student attending a school located on the public school property, provided that (1) the officer or retired officer is displaying the officer's or retired officer's badge or credential; (2) the weapon carried or possessed by the officer or

the retired officer is concealed; and (3) the officer or retired officer is authorized to carry a concealed handgun in the State;

- a person hired by a county board of education specifically for the purpose of guarding public school property;
- a person engaged in organized shooting activity for educational purposes; or
- a person who, with a written invitation from the school principal, displays or engages in a historical demonstration using a weapon or a replica of a weapon for educational purposes.

Handgun prohibitions pertain to (1) wearing, carrying, or transporting a handgun; (2) the use of a handgun or antique firearm in the commission of a crime; and (3) possession of a firearm at a public demonstration. Violators are guilty of a misdemeanor and subject to imprisonment for 30 days to 10 years, depending on the nature of the offense and whether there have been any prior violations by the offender. Most of the violations are subject to mandatory minimum sentencing.

State Revenues: General fund revenues increase minimally as a result of the bill's monetary penalty provision from cases heard in the District Court.

State Expenditures: Higher education expenditures increase minimally for public institutions of higher education to post signs to provide notice of the bill's prohibition.

Morgan State University advises that costs increase by approximately \$100,000 to hire a contractor to post the required signs. The Department of Legislative Services disagrees and advises that the bill's requirements can likely be implemented with minimal cost. The University System of Maryland advises that the bill's requirements have minimal impact on its expenditures. Baltimore City Community College advises that the initial cost for the posting of signs is less than \$2,000.

General fund expenditures increase minimally as a result of the bill's incarceration penalty due to more people being committed to State correctional facilities. The number of people convicted of this proposed crime is expected to be minimal.

Persons serving a sentence longer than 18 months are incarcerated in State correctional facilities. Currently, the average total cost per inmate, including overhead, is estimated at \$3,600 per month. This bill alone, however, should not create the need for additional beds, personnel, or facilities. Excluding overhead, the average cost of housing a new State inmate (including variable health care costs) is about \$800 per month. Excluding all health care, the average variable costs total \$210 per month.

Persons serving a sentence of one year or less in a jurisdiction other than Baltimore City are sentenced to local detention facilities. For persons sentenced to a term of between 12 and 18 months, the sentencing judge has the discretion to order that the sentence be served at a local facility or a State correctional facility. Prior to fiscal 2010, the State reimbursed counties for part of their incarceration costs, on a per diem basis, after a person had served 90 days. Currently, the State provides assistance to the counties for locally sentenced inmates and for inmates who are sentenced to and awaiting transfer to the State correctional system. A \$45 per diem grant is provided to each county for each day between 12 and 18 months that a sentenced inmate is confined in a local detention center. Counties also receive an additional \$45 per day grant for inmates who have been sentenced to the custody of the State but are confined in a local facility; beginning October 1, 2017, counties may receive the additional \$45 per day grant for inmates sentenced to the custody of the State who receive reentry or other prerelease programming and services from a local facility.

The State does not pay for pretrial detention time in a local correctional facility. Persons sentenced in Baltimore City are generally incarcerated in State correctional facilities. The Baltimore Pretrial Complex, a State-operated facility, is used primarily for pretrial detentions.

Local Revenues: Revenues increase minimally as a result of the bill's monetary penalty provision from cases heard in the circuit courts.

Local Expenditures: Local expenditures increase minimally for community colleges to post signs to provide notice of the bill's prohibition.

Local expenditures also increase minimally as a result of the bill's incarceration penalty. Counties pay the full cost of incarceration for people in their facilities for the first 12 months of the sentence. A \$45 per diem State grant is provided to each county for each day between 12 and 18 months that a sentenced inmate is confined in a local detention center. Counties also receive an additional \$45 per day grant for inmates who have been sentenced to the custody of the State but are confined in a local facility; beginning October 1, 2017, counties may receive the additional \$45 per day grant for inmates sentenced to the custody of the State who receive reentry or other prerelease programming and services from a local facility. Per diem operating costs of local detention facilities have ranged from approximately \$60 to \$160 per inmate in recent years.

Additional Information

Prior Introductions: HB 1002 of 2016, a similar bill, as amended, passed the House, was referred to the Senate Judicial Proceedings Committee, and had no further action taken on

it. Its cross file, SB 906, received a hearing in the Senate Judicial Proceedings Committee, but no further action was taken. SB 311 of 2011, a similar bill, received a hearing in the Senate Judicial Proceedings Committee, but no further action was taken on the bill. In addition, similar bills were introduced in the 2010 and 2009 sessions.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts); University System of Maryland; Maryland Higher Education Commission; Baltimore City Community College; Morgan State University; Department of State Police; Department of Legislative Services

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