

Department of Legislative Services
Maryland General Assembly
2019 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 441

(Senator Smith, *et al.*)

Judicial Proceedings

Public Safety - Access to Firearms - Storage Requirements

This bill modifies an existing prohibition related to a child’s access to firearms. Specifically, under the bill, a person may not store or leave a loaded *or unloaded* firearm in a location where the person knew or should have known that an unsupervised child *could* gain access to the firearm *unless the firearm is locked (1) by an “external safety lock” or an integrated mechanical safety device” or (2) in a “safe storage depository.”* The bill also modifies the misdemeanor penalty for a violation of that prohibition by adding a maximum term of imprisonment of two years that may apply in addition to or instead of the existing monetary penalty. In addition, the bill alters the definition of “child” to mean an individual younger than age 18.

Fiscal Summary

State Effect: Minimal increase in general fund revenues and expenditures due to the bill’s expanded prohibition and penalty provisions.

Local Effect: Minimal increase in local revenues and expenditures due to the bill’s expanded prohibition and penalty provisions.

Small Business Effect: None.

Analysis

Bill Summary: A “safe storage depository” means a safe or other secure container which, when locked, is:

- incapable of being opened without a key, a combination, or any other unlocking mechanism; and
- capable of preventing an unintended person from gaining access to the item located inside the safe or container.

Current Law: A person may not store or leave a loaded firearm in a location where the person knew or should have known that an unsupervised child would gain access to the firearm. A violator is guilty of a misdemeanor and subject to a maximum fine of \$1,000.

The prohibition does not apply if:

- the child’s access to a firearm is supervised by an individual at least age 18;
- the child’s access to a firearm was obtained as a result of an unlawful entry;
- the firearm is in the possession or control of a law enforcement officer while the officer is engaged in official duties; or
- the child has a certificate of firearm and hunter safety issued under applicable provisions of the Natural Resources Article.

A violation may not (1) be considered evidence of negligence; (2) be considered evidence of contributory negligence; (3) limit liability of a party or an insurer; or (4) diminish recovery for damages arising out of the ownership, maintenance, or operation of a firearm or ammunition. A party, witness, or lawyer may not refer to a violation during a trial of a civil action that involves property damage, personal injury, or death.

“Child” means an individual younger than age 16.

“External safety lock” means an external device that is (1) attached to a handgun with a key or combination lock and (2) designed to prevent a handgun from being discharged unless the device has been deactivated.

“Integrated mechanical safety device” means a disabling or locking device that is (1) built into a handgun and (2) designed to prevent the handgun from being discharged unless the device has been deactivated.

State Revenues: Because the bill expands a current law prohibition, general fund revenues increase minimally as a result of the bill’s monetary penalty provision from cases heard in the District Court.

The Department of Public Safety and Correctional Services reports that, in fiscal 2018, for an offense relating to providing access to firearms by a child, there were no inmates

admitted into a State correctional facility and one open case with the Department of Parole and Probation.

State Expenditures: General fund expenditures increase minimally as a result of the bill's incarceration penalty due to more people being committed to State correctional facilities and increased payments to counties for reimbursement of inmate costs. The number of people convicted of this expanded 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 \$3,800 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. The State provides assistance to the counties for locally sentenced inmates and for (1) inmates who are sentenced to and awaiting transfer to the State correctional system; (2) sentenced inmates confined in a local detention center between 12 and 18 months; and (3) inmates who have been sentenced to the custody of the State but are confined in or 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: Because the bill expands a current law prohibition, revenues increase minimally as a result of the bill's monetary penalty provision from cases heard in the circuit courts.

Local Expenditures: Expenditures 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 or 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 \$40 to \$170 per inmate in recent years.

Additional Information

Prior Introductions: HB 861 of 2013, a similar bill, received a hearing in the House Judiciary Committee, but no further action was taken.

Cross File: HB 468 (Delegate Stein, *et al.*) - Judiciary.

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

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