

Department of Legislative Services
 Maryland General Assembly
 2022 Session

FISCAL AND POLICY NOTE
Enrolled - Revised

Senate Bill 861

(Senator Beidle, *et al.*)

Judicial Proceedings

Judiciary

Crimes - Firearms and Inmates - Enforcement, Procedures, and Reporting

This bill establishes the Maryland State Police Gun Center within the Department of State Police (DSP) as a statewide firearms enforcement center for the tracking, screening, and vetting of all firearm crimes committed in the State. Beginning in 2023, and annually thereafter, the Governor must include in the annual State budget an appropriation sufficient to fund the operations of the center. In addition, the bill (1) expands the list of cases in which the State may appeal from specified evidentiary decisions and (2) expands the information that must be included in the *Commissioner of Correction Annual Report* and in the Division of Correction (DOC) *Financial and Operational Report*.

Fiscal Summary

State Effect: General fund expenditures increase by \$3.4 million in FY 2023 for the gun center; future years are annualized, adjusted for inflation, and reflect ongoing costs (including contractual services related to the database). The FY 2023 budget provides for a transfer of \$3.4 million in general funds from the Dedicated Purpose Account to establish the gun center, contingent upon the enactment of this bill. Revenues are not affected.

(\$ in millions)	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	3.4	3.9	2.6	2.0	2.1
Net Effect	(\$3.4)	(\$3.9)	(\$2.6)	(\$2.0)	(\$2.1)

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

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Bill Summary:

Gun Center: The center must (1) create and maintain a statewide database to track information on crimes committed with “crime firearms”; (2) coordinate with DSP and law enforcement agencies to screen and vet all firearm crimes committed in the State, as specified; and (3) assist DSP and law enforcement agencies with firearm enforcement and firearm violation reduction efforts. Each law enforcement agency must report to the center specified information regarding crimes committed with crime firearms in the law enforcement agency’s jurisdiction. The center (1) must designate how often law enforcement agencies must report the required information and (2) may require a law enforcement agency to report other information relating to firearm crimes committed in the law enforcement agency’s jurisdiction to assist the center in the tracking of firearm crimes committed in the State.

“Crime firearm” means a firearm that is used in the commission of a crime of violence, as defined under § 5-101 of the Public Safety Article, or recovered by a law enforcement agency in connection with illegal firearm possession, transportation, or transfer.

Right of Appeal – Firearms Crimes: The bill adds several firearms-related offenses to the list of criminal cases in which the State may appeal from a decision of a trial court that excludes evidence offered by the State or requires the return of property alleged to have been seized in violation of the U.S. Constitution, the Maryland Constitution, or the Maryland Declaration of Rights. In addition, these offenses are added to the cases for which, pending the prosecution and determination of such an appeal, the court may release the defendant on any terms or conditions the court considers appropriate or may order the defendant to remain in custody.

Commissioner of Correction Annual Report: The Commissioner of Correction must include in its annual report submitted to the Secretary of Public Safety and Correctional Services and the Governor, for each correctional facility in DOC, information relating to the annual cost of living for inmates, including the average cost of (1) telephone calls, as specified; (2) video calls; and (3) items available for purchase at the commissary, including feminine hygiene products, toiletries, and medications.

Division of Correction Financial and Operational Report: The annual complete financial and operational report of the Maryland Correctional Enterprises (MCE) and the MCE revolving fund that DOC submits to the Governor, the Secretary of Public Safety and Correctional Services, and the Secretary of Budget and Management, must list the race, age, and sex of inmates currently employed at facilities under the authority of MCE, disaggregated by job classification and wage scale.

Current Law:

Gun Center: Although not established in statute, the Gun Center within the Criminal Investigation Bureau (CIB) of DSP opened January 1, 2013, and was established in an effort to reduce gun crime and assist State and local law enforcement. The center operates around the clock and is available to any prosecutor or law enforcement officer to assist with the interpretation and prosecution of both federal and State firearms laws.

Right of Appeal – Firearms Crimes: In a case involving a crime of violence, as defined in § 14-101 of the Criminal Law Article, and in cases involving specified controlled dangerous substances offenses, the State may appeal from a decision of a trial court that excludes evidence offered by the State or requires the return of property alleged to have been seized in violation of the U.S. Constitution, the Maryland Constitution, or the Maryland Declaration of Rights. The appeal must be made before jeopardy attaches to the defendant. However, in all cases, the appeal must be taken no more than 15 days after the decision has been rendered and must be diligently prosecuted.

Commissioner of Correction Annual Report: By October 31 of each year, the commissioner must submit an annual report to the Secretary of Public Safety and Correctional Services and the Governor that states, for each correctional facility in DOC:

- its expenses, receipts, disbursements, condition, and progress;
- the number of inmates and each inmate's age, sex, race, place of birth, and conviction, crime, and term of confinement;
- the number of inmates who escape, are pardoned, or are discharged;
- the job classifications for inmate labor in each department and facility under DOC's control;
- the daily wage scale at each prison for each job classification under DOC's authority;
- the total number of inmates currently employed at facilities under DOC's authority, disaggregated by facility; and
- any remarks and suggestions the commissioner considers necessary to advance the interests of the correctional facility.

The commissioner must also submit with the report an accurate, detailed statement for all receipts and disbursements to DOC during the year. The commissioner must verify the required report and statement. The Governor must submit to the General Assembly the required report and statement and any recommendations that the Governor considers expedient.

Division of Correction Financial and Operational Report: Annually, DOC must submit a complete financial and operational report of MCE and the MCE revolving fund to the Governor, the Secretary of Public Safety and Correctional Services, and the Secretary of Budget and Management. The report must:

- be in the same general form as a report by DOC on its operations and programs;
- include information about present and projected personnel and compensation requirements of MCE;
- list the job classifications for inmate labor in each department and facility under MCE's authority;
- list the daily wage scale at each prison for each job classification under MCE's authority; and
- list the total number of inmates currently employed at facilities under MCE's authority, disaggregated by facility.

The Governor, the Secretary of Public Safety and Correctional Services, and the Secretary of Budget and Management may include data from the report in the preparation of the budget and capital improvement bill.

Chapters 254 and 255 of 2018 require the managing official of a correctional facility and the director of the Patuxent Institution to ensure that the facility has a sufficient supply of menstrual hygiene products available to meet the needs of the inmate population at all times. Each correctional facility and the Patuxent Institution must (1) have a written policy and procedure in place requiring menstrual hygiene products to be provided at no cost to a female inmate, as specified, and (2) maintain records on the provision and availability of menstrual hygiene products to inmates.

State Expenditures: General fund expenditures increase by \$3.4 million in fiscal 2023 for the gun center; future years are annualized and reflect inflation and ongoing operating expenses. The fiscal 2023 budget provides for a transfer of \$3.4 million in general funds from the Dedicated Purpose Account to establish the gun center, contingent on the enactment of this bill.

Gun Center: General fund expenditures for DSP increase by \$3.4 million in fiscal 2023, which accounts for the bill's October 1, 2022 effective date. This estimate reflects the cost of hiring 19 employees (1 computer network specialist, 1 information technology systems specialist, 13 administrators, and 4 troopers) to create and maintain the required statewide database and to track, screen, and vet all firearm crimes committed in the State. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses. The information and assumptions used in calculating the estimate are stated below:

- The existing center, which is staffed by three troopers and four contractual civilian employees, serves as a *voluntary* resource for all law enforcement agencies in the State and handled approximately 9,900 calls for service in 2021.
- Under the bill, (1) each law enforcement agency *must* report specified information to the center on crimes committed in the law enforcement agency’s jurisdiction with crime firearms; (2) the center *must* coordinate with DSP and law enforcement agencies to screen and vet *all* firearm crimes committed in the State; and (3) the center *must* assist DSP and law enforcement agencies with firearm enforcement and firearm violation reduction efforts.
- Calls for service increase by about 20,000 in fiscal 2023 under the bill.
- Contractual services are necessary to create (over two years) and maintain the statewide database, with fiscal 2023 costs totaling \$1.9 million.
- Two permanent employees are needed to provide support to users of the statewide database.
- Assuming each employee can handle approximately 1,200 cases per year, the center needs 17 additional employees (four troopers and 13 civilian employees) to provide assistance for inquiries relating to firearm crimes.
- Each trooper needs a vehicle.

Positions	19.0
Salaries and Fringe Benefits	\$1,262,002
Contractual Services	1,900,000
Vehicles	90,000
Other Operating Expenses	<u>175,617</u>
Total FY 2023 DSP Expenditures	\$3,427,619

Future year expenditures reflect full salaries with annual increases and employee turnover as well as annual increases in ongoing operating expenses, including ongoing contractual services related to the statewide database (\$2.2 million in fiscal 2024, \$900,000 in fiscal 2025, and \$300,000 annually thereafter).

Appeals by the State: While the bill expands the opportunity for the State to appeal decisions by the court to exclude evidence, given the number of factors involved in a successful prosecution, these provisions are not likely to have a direct effect on State finances.

Commissioner of Correction Annual Report and Division of Correction Financial and Operational Report: The Department of Public Safety and Correctional Services can handle the bill’s reporting requirements with existing budgeted resources

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Department of Information Technology; Kent, Montgomery, Washington, and Worcester counties; towns of Bel Air and Leonardtown; Maryland State Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Comptroller's Office; Morgan State University; Department of General Services; Maryland Department of Health; Department of State Police; Department of Public Safety and Correctional Services; Maryland Department of Transportation; Department of Legislative Services

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