

Department of Legislative Services
Maryland General Assembly
2000 Session

FISCAL NOTE

House Bill 1132 (Delegate Franchot. *et al.*)

Judiciary

Handgun Violations - Enhanced Penalties

This bill increases penalties under prohibitions relating to handguns, concealed weapons, and deadly weapons.

Fiscal Summary

State Effect: Significant increase in general fund expenditures due to the bill's changes to handgun offense penalty provisions. Revenues would not be affected.

Local Effect: Significant increase in expenditures due to the bill's changes to handgun offense penalty provisions. Revenues would not be affected.

Small Business Effect: None.

Analysis

Bill Summary: The bill increases the length of sentences for the following misdemeanor handgun violations:

- *First offense of unlawfully wearing, carrying, or transporting a handgun, whether concealed or open.* The bill imposes a minimum sentence of one year and explicitly requires the court to impose no less than this minimum sentence. The bill also imposes a maximum sentence not exceeding four years; and if the violation was committed on public school property, a mandatory minimum sentence of two years.
- *Second offense of unlawfully wearing, carrying, or transporting a handgun; using a handgun in the commission of a crime; carrying a concealed*

weapon; or carrying a deadly weapon on public school property. The bill imposes a mandatory minimum sentence of three years and a maximum sentence of 13 years; if the offense was committed on public school property, a mandatory minimum sentence of four years.

- *Third or subsequent offense of unlawfully wearing, carrying, or transporting a handgun; using a handgun in the commission of a crime; carrying a concealed weapon; or carrying a handgun on public school property.* The bill imposes a mandatory minimum sentence of six years and a maximum sentence of 13 years; and if the violation was committed on public school property, a mandatory minimum sentence of seven years.
- *Unlawfully carrying, wearing, or transporting a handgun with the deliberate purpose of injuring or killing another person.* The bill imposes a minimum sentence of eight years.

Current Law: The existing penalties for these handgun violations are as follows:

- *First offense of unlawfully wearing, carrying, or transporting a handgun, whether concealed or open:* Minimum sentence of 30 days and maximum sentence of three years, or both; and if the violation was committed on school property, a minimum sentence of 90 days.
- *Second offense of unlawfully wearing, carrying, or transporting a handgun; using a handgun in the commission of a crime; carrying a concealed weapon; or carrying a deadly weapon on public school property:* A mandatory minimum sentence of one year, a maximum sentence of 13 years; and if the violation was committed on school property, a minimum sentence of three years.
- *Third or subsequent offense of unlawfully wearing, carrying, or transporting a handgun; using a handgun in the commission of a crime; carrying a concealed weapon; or carrying a deadly weapon on public school property:* A mandatory minimum sentence of three years, a maximum sentence of ten years; and if the violation was committed on school property, a mandatory minimum sentence of five years.
- *Unlawfully carrying, wearing, or transporting a handgun with the deliberate purpose of injuring or killing another person:* A minimum sentence of five years.

State Expenditures: In fiscal 1999, the Division of Correction (DOC) had 547 intakes for handgun violations, and another 562 intakes for other weapons violations, including deadly weapons. In addition, the Division of Parole and Probation had an intake of 1,016 persons for similar offenses during the same period. This bill would increase the length of stay for DOC intakes, as well as add to that intake by a significant percentage of those persons now remanded to Parole and Probation.

Accordingly, general fund expenditures could increase significantly as a result of the bill's increases of incarceration penalties due to significantly more people being committed to DOC facilities for longer periods of time and increased payments to counties for reimbursement of inmate costs. This bill could increase the average daily population in DOC facilities to the extent that additional beds, personnel, infrastructure improvements, or a new prison facility will be necessary. Based on a cost of approximately \$105,000 per bed, the cost of building a new medium security 1,300 bed prison facility is currently estimated at \$136.5 million.

Persons serving a sentence longer than one year are incarcerated in DOC facilities. Currently, the average total cost per inmate, including overhead, is estimated at \$1,700 per month. The average variable cost of housing a new inmate (food, medical costs, etc.), excluding overhead, is \$260 per month. For illustrative purposes, if this bill resulted in an additional 400 intakes, representing persons who might be remanded to Parole and Probation under current law penalties, for all of these circumstances combined, and these persons ended up serving an average of 18 months in a DOC facility, assuming full inmate costs of \$1,700 per month, State costs could increase by \$30,600 on average for each person imprisoned under the bill, and by a total of \$12,240,000 for all 400 persons. An additional 18 months added on to DOC's current handgun violation intake (547) alone, due to stiffer sentencing for all referenced offenses, would increase State correctional costs by another \$16.7 million.

Persons serving a sentence of one year or less in a jurisdiction other than Baltimore City are sentenced to local detention facilities. The State reimburses counties for part of their incarceration costs, on a per diem basis, after a person has served 90 days. State per diem reimbursements for fiscal 2001 are estimated to range from \$11 to \$54 per inmate depending upon the jurisdiction. Persons sentenced to such a term in Baltimore City are generally incarcerated in DOC facilities. The Baltimore City Detention Center, a State operated facility, is used primarily for pretrial detentions.

In addition, the Office of the Public Defender advises that, because this bill would result in fewer pleas being entered into, costs could significantly increase for that agency if a significantly greater number of such cases go to trial.

Local Expenditures: Expenditures could increase significantly as a result of the bill's increased incarceration penalties. Counties pay the full cost of incarceration for people in their facilities for the first 90 days of the sentence, plus part of the per diem cost after 90 days. Per diem operating costs of local detention facilities are expected to range from \$22 to \$83 per inmate in fiscal 2001.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Public Safety and Correctional Services (Division of Correction), Office of the Public Defender, Department of Legislative Services

Fiscal Note History: First Reader - March 14, 2000
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